

ORDINANCE NO. 1081

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA, ADDING CHAPTER 8.65 TO TITLE 8 OF THE PICO RIVERA MUNICIPAL CODE ESTABLISHING THE REGISTRATION, MAINTENANCE AND SECURITY OF PROPERTIES IN FORECLOSURE ORDINANCE

WHEREAS, the prolonged economic downturn, aggravated by high rates of unemployment in all areas of Los Angeles County continues to keep the number of foreclosed properties, or properties with mortgages in default (“distressed properties”) high as unemployed homeowners struggle to make monthly mortgage payments; and

WHEREAS, many of these properties subject to or threatened with the foreclosure process are vacated or abandoned prior to the conclusion of the foreclosure process and such vacant or abandoned properties may sit empty for months or years awaiting the final foreclosure sale; and

WHEREAS, the presence of real properties in foreclosure can lead to neighborhood decline by creating a public nuisance which could contribute to lower property values and could discourage potential buyers from purchasing a property adjacent to or in neighborhoods with properties in foreclosure; and

WHEREAS, many foreclosed real properties are the responsibility of out of area or out of State beneficiaries and trustees, and in many instances the beneficiaries and/or trustees fail to adequately maintain and secure these foreclosed properties; and

WHEREAS, establishing a registration program for properties in foreclosures will assist staff in comprising and maintaining a database to contact the responsible parties to enforce maintenance and safety provisions of the Municipal Code; and

WHEREAS, the City Council desires to preserve the health, safety, and welfare of residents and the community, and to the extent possible, protect neighborhoods from declining property values, aesthetic decay, and/or loss of character.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pico Rivera as follows:

SECTION 1. That Title 8 (Health and Safety) of the Pico Rivera Municipal Code is hereby amended by the addition of Chapter 8.65, as follows:

CHAPTER 8.65. REGISTRATION, MAINTENANCE AND SECURITY OF PROPERTIES IN FORECLOSURE ORDINANCE

8.65.010. Title.

This article shall be known and designated as the “Registration, Maintenance and Security of Properties in Foreclosure Ordinance.”

8.65.020. Purpose of Article.

The purpose of this article is to establish a property registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of properties due to Foreclosure.

8.65.030. Definitions.

The following definitions shall govern all terms of this article and shall supersede any term otherwise defined in this Code:

- (a) *“Abandoned”* means any property that is vacant and is under a current notice of default and/or notice of trustee's sale, and/or any property which has been the subject of a foreclosure sale trustee sale or judicially authorized sale where the title was retained by the beneficiary under its deed of trust upon the conclusion of the foreclosure and any property transferred by the trustor under a deed in lieu of foreclosure and/or sale to either the beneficiary, the trustee or to any authorized entity as approved by the beneficiary.
- (b) *“Agent”* means and refers to a trustee and any other person authorized to act on behalf of a beneficiary with respect to a mortgage loan account, or real property which is pledged to the beneficiary as security to a mortgage loan, and for the purposes of this Chapter, the term “agent” includes any person authorized to act on behalf of a beneficiary who has completed a foreclosure of property from and after the time such beneficiary has acquired title to the property which was formerly secured by a deed of trust in favor of such beneficiary when the agent is undertaking any work or responsibility for the former beneficiary with respect to the ownership, maintenance, use or other disposition of such property, including any affiliate of such a beneficiary which acquire title to such property either, at the time of foreclosure (or recordation of a deed in lieu of foreclosure and/or sale).
- (c) *“Beneficiary”* means a lender under a promissory note to pay money secured by a deed of trust on property. The word "beneficiary" as used in this Chapter means and includes any assignee or successor to such beneficiary, whether such assignee or successor acquires its interest in the beneficiary's promissory note either before a notice of default is recorded on the property securing the obligation payable to the beneficiary or after a notice of default is recorded. In the event that a property may provide security for the loan or obligation of more than one beneficiary, the beneficiary who causes its notice of default to be recorded shall be responsible for registering the property as set forth in this Chapter 8.65.
- (d) *“City”* means the City of Pico Rivera.
- (e) *“Deed in Lieu of Foreclosure and/or Sale”* means an instrument that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

- (f) *“Deed of Trust”* means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition applies to all deeds of trust regardless of priority.
- (g) *“Default”* means the failure to fulfill a contractual obligation, monetary or non-monetary.
- (h) *“Distressed”* means a property that is under a current notice of default and/or notice of trustee's sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.
- (i) *“Foreclosure”* means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the Trustor (borrower) Defaults.
- (j) *“Local”* means within 50-road/driving miles distance of the subject property.
- (k) *“Notice of Default”* or *“Notice of Trustee’s Sale”* means a recorded notice that a Default has occurred under a Deed of Trust and that the Beneficiary intends to proceed with a Trustee’s sale or other similar remedies authorized by law.
- (l) *“Out of Area”* means in excess of 50-road/driving miles distance of the subject property.
- (m) *“Property in Foreclosure”* or *“Property”* means any Property upon which a Notice of Default has been issued by a lender, mortgagee, or Beneficiary of any Deed of Trust, or real property that has been the subject of a foreclosure sale where the title was transferred to the Beneficiary of a Deed of Trust involved in the Foreclosure and any properties transferred under a Deed in Lieu of Foreclosure and/or Sale. *“Property in Foreclosure”* or *“Property”* also means any unimproved or improved real property, or portion thereof, situated in the City of Pico Rivera and includes the buildings or structures located on the Property regardless of condition.
- (n) *“Trustee”* means the person, firm or corporation holding a Deed of Trust on a property.
- (o) *“Trustor”* means a borrower under a Deed of Trust, who deeds property to a Trustee as security for the payment of a debt.
- (p) *“Vacant”* means a building/structure that is not legally occupied.

8.65.040. Registration of Properties in Foreclosure.

- (a) Any Beneficiary or its agent, or Trustee, who holds, or has an interest in, a Deed of Trust on a Property in Foreclosure, located within the City, shall register the Property in Foreclosure with the Community and Economic

Development Department of the City. If the Beneficiary or Trustee issues a Notice of Default after the Effective Date of this Ordinance, they shall register such Property with the City within thirty (30) calendar days of the issuance of such Notice of Default. If the Beneficiary or Trustee issues a Notice of Default prior to the Effective Date of this Ordinance, and such Notice of Default has not been rescinded, the Beneficiary or Trustee shall register the Property in Foreclosure with the City within thirty (30) calendar days of the Effective Date of this Ordinance.

The registration requirement described in this section shall also apply to Property that has been the subject of a Foreclosure sale where the title was transferred to the Beneficiary of a Deed of Trust involved in the Foreclosure and any properties transferred under a Deed in Lieu of Foreclosure and/or Sale.

- (b) The registration requirements of this section shall be satisfied by providing the City the following information:
- (1) The address and Assessor Parcel Number (APN) of the Property in Foreclosure;
 - (2) The name of the Beneficiary and/or Trustee (corporation or individual);
 - (3) The name(s) of all Beneficiaries and/or Trustees (corporations or individuals) who holds security interest at the time when the Notice of Default is recorded;
 - (4) The direct street and/or office mailing address of the Beneficiary and/or Trustee (P.O. boxes are insufficient);
 - (5) A direct contact name and phone number person(s) or agent(s) acting on behalf of the Beneficiary and/or Trustee;
 - (6) In the case of a corporation or Out of Area Beneficiary and/or Trustee, a direct contact staff member name and phone number with the Local property management company responsible for the security, maintenance and marketing of the Property; such staff member must be empowered to (i) comply with code enforcement orders issued by the City, (ii) provide a trespass authorization upon request of local law enforcement authorities if the Property is unlawfully occupied, (iii) conduct weekly inspections of the Property, and (iv) accept rental payments from tenants of the Property if no management company is otherwise employed for such person; and
 - (7) And other information as deemed necessary by the Community and Economic Development Department.
- (c) Any person, firm, or corporation that has registered a Property under this article must report any change of information contained in the registration with the Community and Economic Development Department within 10

calendar days of the change. If the Community and Economic Development Department determines that the Beneficiary and/or Trustee has failed to comply with the registry requirements of this section, the Community and Economic Development Department shall notify the Beneficiary and/or Trustee at the last known address as provided in 8.65.040 (b) of the failure to comply with this section. If the Beneficiary and/or Trustee fail to comply with this section within thirty (30) calendar days of the Community and Economic Development Department's notification, the Beneficiary and/or Trustee shall pay a penalty as prescribed in 8.65.120 subsequent to the Community and Economic Development Department's notification.

- (d) Properties subject to this article shall remain subject to the annual registration requirement and the security and maintenance standards of this article as long as they remain in foreclosure.

8.65.050. Registration Fee.

An annual Foreclosed Properties Registration Fee, as prescribed in Chapter 8.65.100, shall be paid to City at the time of registration. The beneficiary or its agent shall annually renew a registration of each property which the beneficiary has previously registered with the City under this Chapter 8.65, and in which such beneficiary retains either an equitable or legal interest as of the first anniversary of the registration of such property with the City. The beneficiary or its agent shall re-register the property on forms authorized by the City. Registration fees shall not be prorated.

8.65.060. Special Provisions where Property is Encumbered with the Security Interests of Multiple Beneficiaries.

- (a) In the event that a Property is encumbered by the security interests of more than one (1) Beneficiary at the time when a Notice of Default is recorded, the Beneficiary who causes a Notice of Default for its security interest to be recorded shall be responsible for registering the Property with the City as provided in 8.65.040.
- (b) Upon the recordation of a Notice of Default on a Property by any Beneficiary, regardless of the security lien interest priority of such Beneficiary in the Property in relation to the priority of the security interests of the other beneficiaries in the same property, the City, in its discretion may elect to enforce the provisions of this article against one or more beneficiaries who have not separately recorded a Notice of Default against the Property.

8.65.070. Maintenance and Security of Properties in Foreclosure.

- (a) Properties subject to or threatened with the foreclosure process which are abandoned or vacant shall be, in comparison to the neighborhood standard, maintained in the following manner: watering and moving of lawn; trimming of trees, hedges, and shrubbery; kept free and cleared of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of

newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned; maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure; and repairing aesthetic features of the structure to be compatible to the surrounding structures. In general, the maintenance shall comply with the standards set forth in current HUD securing standards, or such other standard as may hereafter be ordered in writing by the Community Development Director, Building Official, or the City Manager. Adherence to the maintenance and monitoring standard set forth in this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.

- (b) If the Property is owned by a corporation and/or Out of Area Beneficiary/Trustee/Owner, a Local property management company that holds a valid and current City Business License shall be contracted to perform weekly inspections to verify that the Property is in full compliance with the requirements of this article, and any other applicable laws. If the property management company determines the Property is not in compliance, it is the company's responsibility to bring the Property into compliance.
- (c) Properties subject to or threatened with the foreclosure process which are abandoned or vacant shall be secured in the following manner: the closing and locking of windows, doors (walkthrough, sliding, and garage), gates and any other opening that may allow access to the interior of the Property and/or structure(s). In the case of broken windows, "secured" means re-glazing or boarding-up the window.
- (d) If a pool and/or spa exists on the Property, it must be completely emptied of all water and kept dry, and must be inspected and drained periodically so not to accumulate rainwater.
- (e) The Property shall be posted with the name and twenty-four (24) hour contact phone number of the Local property management company. The posting shall be 8-1/2" x 11" or larger in size, shall be of a font that is legible from a distance of twenty (20) feet, and shall contain the following verbiage: "THIS PROPERTY IS MANAGED BY _____," and "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone number)." The posting shall be placed on the interior side of a window facing the street to the front of the Property so it is visible from the street, or secured to the exterior of the building/structure facing the street on the front of the Property so it is visible from the street. If no such area exists, the posting shall be on a stake of sufficient size to support the posting, in a location that is visible from the street to the front of the Property, and to the extent possible, not readily accessible to potential vandalism. Exterior posting must be constructed of, and printed with weather resistant materials.

8.65.080. Declaration of Public Nuisance.

The duties/obligations specified in this article shall be joint and several among and between all Trustees and Beneficiaries and their respective agents. The provisions of this article as described herein shall apply to Properties subject to this Article. Should a Property be deemed a public nuisance, hazardous, or substandard by the City, the City may initiate the abatement procedures described in Title 8, Chapter 8.16, Article I against the Beneficiary and/or Trustee.

8.65.090. Notice by beneficiary to City of disposition of registered property.

- (a) Within ten (10) days following the release of a notice of default and the reinstatement of the loan of the trustor, the beneficiary or its agent shall give the City written notice of such release and reinstatement.
- (b) Within ten (10) days following the sale, transfer or other conveyance to a third person of a property registered with the City under this Chapter 8.65, the beneficiary or its agent, shall give the City written notice of such sale, transfer or other conveyance together with current contact information for such bona fide purchaser/successor-in-interest to the beneficiary in such property.

8.65.100. Fees.

- (a) A Foreclosed Properties Registration Fee and Re-Registration Fee will be required for properties subject to this article. The fees shall be applied towards reimbursing the City for reasonable City costs incurred and resources expended the administration of this article.
- (b) The Foreclosed Properties Registration Fee and Re-Registration Fee shall be set by Resolution as approved by the City Council.
- (c) Additional hourly inspection fees as set forth in the City's Fees Schedule may be levied on a Property for staff time to inspect and enforce the provisions of this Code when a complaint has been filed on a Property subject to this article.

8.65.110. Authority and Enforcement.

The Community and Economic Development Department shall manage the implementation, coordination, documentation, administration and enforcement of this article. Nothing contained herein shall be construed to limit the City's authority to contract or utilize third parties in the enforcement and implementation of this Chapter.

8.65.120. Penalties.

- (a) Violation of any provision of this article may be enforced by civil action, including an action for injunctive relief. In any civil enforcement action,

administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this article.

- (b) Pursuant to the provisions of Title 8, Chapter 8.16, Article II of this Code, any Beneficiary and/or Trustee of a Property on which a building is situated which is in violation of this shall be subject to an administrative penalty, in an amount not to exceed two hundred and fifty dollars (\$250.00) per building for the first violation.
- (c) Subsequent Violations. A second administrative penalty shall be imposed upon a beneficiary and/or trustee pursuant to this article if the building remains in violation of this article fifteen (15) calendar days following the imposition of the first administrative penalty in an amount not to exceed five hundred dollars (\$500.00). Additional penalties may be imposed for each succeeding fifteen-day period following the imposition of the preceding administrative penalty under this article. Additional penalties may be imposed for each violation so long as the violation continues. Subsequent penalties shall be in an amount not to exceed one thousand dollars (\$1,000.00) per 15-day period.
- (d) Multiple Offense Penalties. If a previous administrative penalty has been imposed pursuant to this chapter upon a Beneficiary or Trustee within six (6) months of the date of the imposition of the prior administrative penalty, and that previous administrative penalty related to a property in foreclosure other than the subject property to a subsequent administrative penalty, any such penalty imposed shall be imposed pursuant to Section 8.16.230 of this code, but in no case shall it be less than two thousand dollars (\$2,000.00), or more than ten thousand dollars (\$10,000.00), subject to the determination of the City.
- (e) Obligation to Correct Violation. Nothing in this article shall be interpreted to mean that because a responsible party has paid the administrative fine he, she, or it is excused from correcting the violation. If the responsible party fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at a rate specified in this article.
- (f) Discretion of Penalty. The issuance of an administrative citation under this article is solely at the discretion of the enforcement official and is one option the City may exercise to address violations of this code. The procedures established in this article shall supplement and be in addition to any criminal, civil or other remedy established by law or under the provisions of this code to address violations of this Code or violations of any other Pico Rivera ordinance. Issuance of an administrative citation shall be cumulative to, and shall not limit or be deemed a waiver of, the use of any other remedy.

8.65.130. Prohibition Against Passing on Costs, Fees and Fines to a Trustor, Subsequent Purchaser or Transferee.

It shall be unlawful for any trustee, beneficiary or agent of a beneficiary to pass on any costs, fees or fines imposed under any provisions of this Chapter to any trustor, subsequent bona fide purchaser or transferee of a property, either as a condition of sale or transfer, or included as a cost or fee in escrow.

8.65.140. Applicability of Other Laws.

Nothing in this article shall relieve any Beneficiary or Trustee of the duty to comply with any and all other applicable statutes, regulations, ordinances, codes, and laws regulating property maintenance, zoning, or building construction. Compliance with this article shall not relieve any Beneficiary or Trustee of any legal duties under such laws.

SECTION 2. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this article or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this article irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end, the provisions of this article are declared to be severable.

SECTION 3. The City Clerk shall certify to the passage and adoption of this Ordinance and it shall take effect thirty (30) days after its passage.

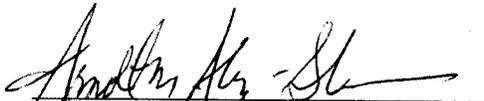
APPROVED AND ADOPTED this 12th day of November, 2013.


Gustavo V. Camacho, Mayor

ATTEST:

APPROVED AS TO FORM:


Anna M. Jerome, Deputy City Clerk


Arnold M. Alvarez-Glasman, City Attorney

AYES: Archuleta, Salcido, Tercero, Camacho
NOES: None
ABSENT: Armenta
ABSTAIN: None



To: Mayor and City Council

From: City Manager

Meeting Date: November 12, 2013

Subject: SECOND READING – ADOPTION OF ORDINANCE NO. 1081 ADDING CHAPTER 8.65 TO TITLE 8 OF THE PICO RIVERA MUNICIPAL CODE ESTABLISHING A REGISTRATION, MAINTENANCE AND SECURITY OF PROPERTIES IN FORECLOSURE ORDINANCE

Recommendation:

Adopt Ordinance No. 1081 adding Chapter 8.65 to Title 8 of the Pico Rivera Municipal Code establishing a Registration, Maintenance and Security of Properties in Foreclosure Ordinance.

Fiscal Impact: None.

Discussion:

At the meeting of October 22, 2013, the City Council introduced a draft ordinance requiring the beneficiaries and/or trustees of foreclosed and abandoned real properties in the City to register their properties with the City. Establishing the registration program for properties in foreclosure will assist City staff in compiling and maintaining a database to contact the responsible parties to enforce maintenance and safety provisions of the Pico Rivera Municipal Code.

Ordinance No. 1081 will become effective 30 days from its adoption.

Ronald Bates

RB:BM:ll

Attachment: Ordinance No. 1081