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**ABANDONED RESIDENTIAL PROPERTY
REGISTRATION ORDINANCES**

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I. Abandoned Residential Property Registration Ordinance – General Background

California is facing an unprecedented threat to its state economy and local economies because of skyrocketing residential property foreclosure rates in California. Residential property foreclosures increased sevenfold from 2006 to 2007. In 2007, more than 84,375 properties were lost to foreclosure in California, and 254,824 loans went into default, the first step in the foreclosure process.¹

High foreclosure rates have adversely affected property values in California, and will have even greater adverse consequences as foreclosure rates continue to rise. According to the *California Foreclosure Report*, April foreclosures numbers were up in all categories. The average daily auction sales exceeded 1,000 properties a day for the first time in California's history. The April data included the following statistics:

- 44, 101 notices of default, a new state record.
- 29,892 notices of trustee's sale, a 7.8% increase over the prior month.
- 22,838 Sale at Auction, a 44% increase over prior month, with a combined loan value of 9.45 billion.

Residential foreclosures are increasing in number and abandoned properties are having a negative impact on the surrounding neighborhoods and local communities. Properties that are in the foreclosure process may be abandoned with no maintenance or security for many months. As a result, these vacant properties can lead to neighborhood blight and reduced property values.

More foreclosures mean reduced property tax revenues and less money for schools, public safety and other key services. Another consequence of foreclosed and abandoned properties is that local city officials feel compelled to prevent neighborhood blight, attractive nuisances and potential health risks.

II. Local Ordinances – The Chula Vista Model

As a result of the foreclosure rate increasing, the City of Chula Vista ("Chula Vista") took a proactive approach.² Chula Vista implemented an *Abandoned Residential Property Registration Program*. This program was adopted by ordinance and requires beneficiaries and trustees (mortgage lender) holding a legal interest under a deed of trust to inspect defaulted properties to confirm that they are occupied. If a property is found to be vacant, the program requires that the mortgage lender secure and maintain the property to the "neighborhood standard."

Chula Vista's Abandoned Residential Property Registration Ordinance ("Ordinance") was specifically tailored to address those properties that are both financially distressed and vacant. The declared purpose of the Ordinance is "to establish an abandoned residential property

¹ Declaration of legislative intent, Senate Bill 1137, approved by the Governor July 8, 2008.

² A copy of the City of Chula Vista Ordinance is attached.

registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.”³

The Ordinance requires the beneficiaries and trustees to inspect defaulted properties to confirm that they are occupied. If a property is found to be vacant, the Ordinance requires the beneficiary/trustee to register the property with the city and immediately begin to secure and maintain the property to the neighborhood standard.

The Ordinance also requires a local management company to inspect the property on a monthly basis if it is in default but still occupied. If it is vacant and owned by an “out of area” beneficiary or trustee, it must be inspected on a weekly basis. The property must be posted with the name and 24-hour contact number of the company responsible for the weekly inspection, maintenance and security of the property. This requirement is intended to remove a city’s code enforcement department from spending its limited resources to act as the “property manager.” This requirement is also intended to increase interaction with the neighborhood and the local responsible party to proactively deter any deterioration of the property and to help preserve the neighborhood.

III. Definitions

Using the Ordinance as a model, the following are key definitions:

“*Abandoned*” means a property that is vacant and is under a current notice of default and/or notice of trustee’s sale, pending tax assessor’s lien sale and/or properties that have been subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

“*Beneficiary*” means a lender under a note secured by a deed of trust.

“*Distressed*” means a property that is under a current notice of default and/or notice of trustee’s sale and/or pending tax assessor lien 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.

“*Evidence of vacancy*” means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

“*Neighborhood standard*” means those conditions that are present on a simple majority of the properties within 300-foot radius of an individual property. A property that is subject of a

³ Ordinance § 15.60.010.

neighborhood standard comparison, or any other abandoned property within the 300-foot radius, shall not be counted towards a simple majority.

“*Securing*” means such measures as may be directed by the Director of Planning or Building or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

“*Vacant*” means a building/structure that is not legally occupied.⁴

IV. Registration Requirements

Unlike the traditional nuisance abatement ordinances, which require the property owner to maintain a property, this Ordinance also includes the beneficiary or trustee as the responsible parties. In addition, this Ordinance requires that a beneficiary or trustee that owns, or is responsible for an abandoned property, to register the home with the city and to retain the services of a local property management company.⁵ The Ordinance’s registration requirements are as follows:

- Any beneficiary/trustee, who holds a deed of trust on a property located within the city, is required to inspect the property that is the security for the deed of trust, upon default by the trustor, prior to the recording a notice of default with the County Recorder’s Office.
- If the property is found to be vacant or shows “evidence of vacancy,” it is deemed abandoned and the beneficiary/trustee shall within 10 days of the inspection, register the property with the Director of Planning and Building.
- If the property is occupied but remains in default, it must be inspected by the beneficiary/trustee or his or her designee, monthly until (1) the trustee or other party remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee must, within 10 days of that inspection, register the property with the Director of Planning and Building.
- In either case, the registration shall contain the following:
 - the name of the beneficiary/trustee (corporation or individual);
 - the direct street/office mailing address of the beneficiary/trustee (no P.O. Boxes);

⁴ Ordinance § 15.60.020.

⁵ A copy of the City of Chula Vista’s registration form is attached.

- a direct contact name and a phone number for the beneficiary/trustee; and
 - in the case of corporation or out of area beneficiary/trustee, the local property management company responsible for the security, maintenance and marketing of the property.
- An annual registration fee must accompany the registration form. The fee and registration shall 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 1 of each year and must be received no later than January 31 of the year due.
 - This section applies to properties that have been the subject of 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/sale.
 - Properties subject to the Ordinance remain under an annual registration requirement and security and maintenance standards as long as they remain vacant. Any person, firm or corporation that has registered a property under the Ordinance is required to report any change of information contained in the registration within 10 days of the change.⁶

V. Maintenance Requirements

As discussed above, the Ordinance's registration requirement also requires that the beneficiary or trustee maintain the abandoned property. A few of the requirements are listed below:

- Property subject to the Ordinance, must be kept to the "neighborhood standard," meaning that it must be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, 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.
- The property must be 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.
- Pools and spas must be kept in working order so that the water remains clear and free of pollutants and debris, and/or drained and kept dry. In

⁶ Ordinance § 15.60.040.

either case, properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.⁷

VI. Security Requirements

Closely related to the maintenance requirement is the Ordinance's property security provision. A few of the requirements are listed below:

- Property subject to the Ordinance must be maintained in a “secure manner” so as to not to be accessible to unauthorized persons. Secure manner includes, but is not limited to the closure and locking of windows, doors (walk-through, sliding, and garage), gates and any other openings of such size that it may allow a child to access the interior of the property and/or structure(s). In the case of broken windows, securing means reglazing or boarding of the window.
- If the property is owned by a corporation and/or out of area beneficiary/trustee/owner, a local property management company must be contracted to perform weekly inspections to verify the requirements of the Ordinance.
- The property is required to be posted with the name and 24-hour contact number of the local property management company. The posting requirements are as follows:
 - no less than 18” X 24”;
 - a font that is legible from a distance of 45 feet;
 - contain along with the name and 24-hour contact number the words “THIS PROPERTY MANAGED BY” and “TO REPORT PROBLEMS OR CONCERNS CALL”; and,
 - the posting must be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street.

VII. Registration Fees

- Chula Vista currently charges a \$70 registration fee.

⁷ Ordinance § 15.60.050.

VIII. Enforcement

Violations of the Ordinance may be enforced by any combination of the following methods: criminal citations, nuisance abatement (with lien proceedings), or administrative citations. Any person aggrieved by the requirements of the Ordinance may request an administrative appeal.

IX. Violations/Penalties

Violations of the Ordinance are treated as a “strict liability offence,” regardless of intent. Any person, firm or corporation that violates any portion of the Ordinance shall be subject to prosecution and/or administrative enforcement. Penalties and/or fines do not exceed \$1,000 per day for a violation.

X. New Legislation - SB 1137

Senate Bill 1137 (“SB 1137”) was signed by the Governor on July 8, 2008, and took effect immediately as an urgency statute.⁸ SB 1137 is intended to implement important foreclosure process reforms to protect the “hundreds of thousands of Californians” who are in danger of losing their homes due to the mortgage crisis. SB 1137 takes several important steps to reduce the number of foreclosure sales by requiring mortgage lenders to communicate, or attempt to contact, borrowers before a notice of default can be filed, and to explore restructuring options before initiating the foreclosure process. It will also provide tenants with more time (60 days) to move from a foreclosed property. It allows local government agencies to fine owners of foreclosure properties if they are not maintaining the properties.

The provisions of the new law outlined below apply to loans secured by owner occupied residential real property and made between January 1, 2003 and December 31, 2007. These provisions will remain effective until January 1, 2013. The requirements of SB 1137 are extensive and the full bill text should be consulted for details.

SB 1137 adds Civil Code section 2923.5, effective until January 1, 2013, and as applied to residential mortgage loans made from January 1, 2003, to December 31, 2007, inclusive, that are for owner-occupied residents, and this bill would:

- Require a mortgagee, trustee, beneficiary, or authorized agent to wait 30 days after contact is made with the borrower, or 30 days after satisfying due diligence requirements to contact the borrower, as specified, before filing a notice of default.
- Require contact with the borrower to assess the borrower’s financial situation and explore options for the borrower to avoid foreclosure.
- Require the mortgagee, beneficiary, or authorized agent to advise the borrower that he or she has the right to request a subsequent meeting within 14 days, and provide the borrower with a toll-free number made

⁸ A copy of SB 1137 is attached.

available by the United States Department of Housing and Urban Development (“HUD”) to find a HUD-certified housing counseling agency.

- Require the notice of default to include a specified declaration in section 2923.5(c) from the mortgagee, beneficiary, or authorized agent regarding its contact with the borrower or that the borrower has surrendered the property.
- If a notice of default had already been filed prior to the enactment of the new law, this bill would instead require the mortgagee, trustee, beneficiary, or authorized agent, as part of the notice of sale, to include a specified declaration regarding contact with the borrower.
- Authorize a borrower to designate a HUD-certified housing counseling agency, attorney or other advisor to discuss with the mortgagee, beneficiary or authorized agent on the borrower’s behalf, options to the borrower to avoid foreclosure. The contact and meeting requirements of these provisions would not apply if the borrower has surrendered the property or the borrower has contracted with an organization, as specified.
- A notice of default may be filed pursuant to section 2924 when a mortgagee, beneficiary, or authorized agent has not contacted a borrower as required by section 2923.5(a)(2) provided that the failure to contact the borrower occurred despite the due diligence of the mortgagee, beneficiary, or authorized agent. Section 2923.5(g) prescribes the details for such “due diligence.”

SB 1137 adds Civil Code section 2924.8, which requires specified mailings to the residents of property that is the subject of a notice of sale, as specified in 2924.8(a), and makes it a crime to tear down a notice of sale posted on a property within 72 hours of posting

SB 1137 adds Civil Code section 2929.3, effective until January 1, 2003, and this bill would:

- Require a legal owner to maintain vacant residential property at a foreclosure sale, or acquired by that owner through a foreclosure under a mortgage or deed of trust.
- Authorize a governmental entity to impose civil fines and penalties for failure to maintain that property of up to \$1,000 per day for a violation.
- Require a governmental entity that seeks to impose those fines and penalties to give notice of the claimed violation and an opportunity to correct the violation at least 14 days prior to imposing the fines and penalties.

- Allow a hearing for contesting fines and/or penalties.
- Fines and penalties collected pursuant to Civil Code section 2923.3 shall be directed to a local nuisance abatement program.
- A governmental entity may not impose fines on a legal owner under both section 2923.3 and a local ordinance.
- Section 2923.3 does not preempt any local ordinances, and only applies only to residential real property.

SB 1137 adds California Code of Civil Procedure section 1161(b) effective until January 1, 2013 and this bill would:

- Give a tenant or subtenant in possession of a rental housing unit at the time the property is sold until foreclosure, 60 days to remove him or herself from the property, as specified.

XI. Conclusion

There is no dispute that in California residential foreclosures are increasing in number and abandoned properties often lead to neighborhood blight and reduced property values. Traditional code enforcement remedies can still be effectively used against foreclosed properties by addressing them in a more aggressive manner. The Abandoned Residential Property Maintenance Registration Ordinances are proactive and intended to protect neighborhoods and the surrounding communities from becoming blighted by inadequate maintenance and security of abandoned properties. The full effect of these ordinances remains to be seen; however, they are one more remedy to help alleviate the community problems associated with abandoned properties.

ATTACHMENT 1

Chapter 15.60

ABANDONED RESIDENTIAL PROPERTY REGISTRATION

Sections:

- 15.60.010 Purpose/scope.
- 15.60.020 Definitions.
- 15.60.030 Recordation of transfer of loan/deed of trust/assignment of rents.
- 15.60.040 Registration.
- 15.60.050 Maintenance requirements.
- 15.60.060 Security requirements.
- 15.60.070 Additional authority.
- 15.60.080 Fees.
- 15.60.090 Enforcement.
- 15.60.100 Appeals.
- 15.60.110 Violation/penalty.
- 15.60.120 Severability.

15.60.010 Purpose/scope.

It is the purpose and intent of the Chula Vista City Council, through the adoption of this chapter, 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. (Ord. 3080 § 1, 2007).

15.60.020 Definitions.

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

“Abandoned” means a property that is vacant and is under a current notice of default and/or notice of trustee’s sale, pending tax assessor’s lien sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

“Accessible property” means a property that is accessible through a compromised/breached gate, fence, wall, etc.

“Accessible structure” means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

“Agreement” means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

“Assignment of rents” means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.

“Beneficiary” means a lender under a note secured by a deed of trust.

“Buyer” means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

“Dangerous building” means any building/structure that is violation of any condition referenced in Chapter 15.18 CVMC.

“Days” means consecutive calendar days.

“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. Used in California instead of a mortgage. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed, third trust deed, etc.

“Deed in lieu of foreclosure/sale” means a recorded document 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.

“Default” means the failure to fulfill a contractual obligation, monetary or conditional.

“Distressed” means a property that is under a current notice of default and/or notice of trustee’s sale and/or pending tax assessor’s lien 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.

“Evidence of vacancy” means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

“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.

“Local” means within 40 road/driving miles distance of the subject property.

“Neighborhood standard” means those conditions that are present on a simple majority of properties within a 300-foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the 300-foot radius, shall not be counted toward the simple majority.

“Notice of default” 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.

“Out of area” means in excess of 40 road/driving miles distance of the subject property.

“Owner” means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

“Owner of record” means the person having recorded title to the property at any given point in time the record is provided by the San Diego County Recorder’s Office.

“Property” means any unimproved or improved real property, or portion thereof, situated in the City and includes the buildings or structures located on the property regardless of condition.

“Residential building” means any improved real property, or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as “residential” whether or not it is legally permitted and/or zoned for such use.

“Securing” means such measures as may be directed by the Director of Planning and Building or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

“Trustee” means the person, firm or corporation holding a deed of trust on a property.

“Trustor” means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

“Vacant” means a building/structure that is not legally occupied. (Ord. 3080 § 1, 2007).

15.60.030 Recordation of transfer of loan/deed of trust/assignment of rents.

Within 10 days of the purchase and/or transfer of a loan/deed of trust secured by residential property the new beneficiary/trustee shall record, with the San Diego County Recorder’s Office, an assignment of rents, or similar document, that lists the name of the corporation, and/or individual, the mailing address and contact phone number of the new beneficiary/trustee responsible for receiving payments associated with the loan/deed of trust. (Ord. 3080 § 1, 2007).

15.60.040 Registration.

Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Chula Vista, shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, prior to recording a notice of default with the San Diego County Recorder’s Office. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary/trustee shall, within 10 days of the inspection, register the property with the Director of Planning and Building or his or her designee on forms provided by the City.

If the property is occupied but remains in default it shall be inspected by the beneficiary/trustee, or his designee, monthly until (1) the trustor or other party remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within 10 days of that inspection, register the property with the Director of Planning and Building or his designee on forms provided by the City.

In either case the registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out-of-area beneficiary/trustee, the local property management company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall 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.

This section shall also apply to properties that have 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/sale.

Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

Any person, firm or corporation that has registered a property under this chapter must report any change of information contained in the registration within 10 days of the change. (Ord. 3080 § 1, 2007).

15.60.050 Maintenance requirements.

Properties subject to this section shall be, in comparison to the neighborhood standard, kept free 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.

The property shall be 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.

Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required.

Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.

Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscape and removal of all trimmings.

Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

Adherence to 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. (Ord. 3080 § 1, 2007).

15.60.060 Security requirements.

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

Secure manner includes but is not limited to the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s). In the case of broken windows securing means the reglazing or boarding of the window.

If the property is owned by a corporation and/or out-of-area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The property shall be posted with name and 24-hour contact phone number of the local property management company. The posting shall be no less than 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet and shall contain along with the name and 24-hour contact number the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall be placed on the interior 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 to the front of the property so it is visible from the street or, if no such area exists, 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 but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather resistant materials.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter. (Ord. 3080 § 1, 2007).

15.60.070 Additional authority.

In addition to the enforcement remedies established in Chapters 1.20, 1.30 and 1.41 CVMC, the Director of Planning and Building or his or her designee shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any

property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property. (Ord. 3080 § 1, 2007).

15.60.080 Fees.

The fee for registering an abandoned residential property shall be set by resolution of the City Council. (Ord. 3080 § 1, 2007).

15.60.090 Enforcement.

Violations of this chapter may be enforced in any combination as allowed in Chapters 1.20, 1.30 and 1.41 CVMC. (Ord. 3080 § 1, 2007).

15.60.100 Appeals.

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed under Chapter 1.40 CVMC. (Ord. 3080 § 1, 2007).

15.60.110 Violation/penalty.

Violations of this chapter shall be treated as a 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 Chapters 1.20 and 1.41 CVMC. (Ord. 3080 § 1, 2007).

15.60.120 Severability.

Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect. (Ord. 3080 § 1, 2007).

ATTACHMENT 2



Transaction
Code #0136

DEPARTMENT OF PLANNING AND BUILDING
REGISTRATION FORM FOR ABANDONED RESIDENTIAL PROPERTY

Please fill out the information requested below and deliver this form to the Public Services Building reception desk or mail to **Department of Planning and Building, City of Chula Vista, 276 Fourth Ave., MS•B200, Chula Vista, CA 91910.**

Registered Residence Address: _____

Chula Vista CA, zip code: _____

Assessor Parcel Number: _____

Notice of Default Recordation # _____ *(Please attach copy to this form)*

Lender/Lien Holder: _____

Contact: _____ Contact Phone: (____) _____

Lender/Lien Holder Mailing Address:

Property Manager: _____ Business license # _____

Contact: _____ 24 Hour Phone #: (____) _____

Property Management Company Local Mailing Address:

Standard Annual Fee of \$70.00 *Please check one:* New registration Renewal registration

An annual registration fee shall accompany this registration form. The fee and registration shall 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 31 of the year due. Registration fees will not be prorated. [CVMC 15.60.040]

Initiated By:

Print Name

Signature

Date

Company Name and Address

Back of Registration Form for Abandoned Residential Property

City of Chula Vista Municipal Code, Chapter 1.41, ADMINISTRATIVE COMPLIANCE AND ENFORCEMENT PROCEDURES Section 1.41.010:

A. It is the purpose and intent of the city council to establish administrative procedures for obtaining prompt compliance in the correction of both major and minor violations of the Chula Vista Municipal Code and state law. Conditions in violation of the municipal code or state law which affect conditions upon or uses of real property within the city of Chula Vista are hereby designated nuisances. The procedures authorized or identified by this chapter are the following: notices of violation; administrative citations; administrative fines and penalties; cease and desist orders; abatement of nuisances; recordation of notices of violation; authorization to charge reinspection fees; cost recovery for costs of enforcement; confirmation of costs; and recordation of liens and assessments for cost recovery.

City of Chula Vista Municipal Code, Chapter 15.60, ABANDONED RESIDENTIAL PROPERTY REGISTRATION Section 15.60.010:

It is the purpose and intent of the Chula Vista City Council, through the adoption of this Chapter, 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.

Owner Responsibility under CVMC 15.60:

- Within ten (10) days of the purchase and/or transfer of a loan/deed of trust secured by residential property the new beneficiary/trustee shall record, with the San Diego County Recorders Office, an Assignment of Rents. [CVMC 15.60.030]
- If the property is vacant or abandoned, the beneficiary/trustee shall register the property with the City using this form within ten days of transfer, vacancy or subsequent vacancy. [CVMC 15.60.040]
- Report to the City any change of address and change of contact information within ten days of said change. [CVMC 15.60.040]
- Maintain the property on a weekly basis. [CVMC 15.60.050 and 15.60.060]
- Secure the property. [CVMC 15.60.060]
- Post the property with the property manager's name, address and 24-hour contact phone number. [CVMC 15.60.060]

A copy of this or any municipal code of the City of Chula Vista may be downloaded at

http://www.chulavistaca.gov/City_Services/Administrative_Services/City_Clerk/Records/municipal_code.asp

ATTACHMENT 3

Senate Bill No. 1137

CHAPTER 69

An act to add and repeal Sections 2923.5, 2923.6, 2924.8, and 2929.3 of the Civil Code, and to add and repeal Section 1161b of the Code of Civil Procedure, relating to mortgages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 8, 2008. Filed with Secretary
of State July 8, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1137, Perata. Residential mortgage loans: foreclosure procedures.

(1) Upon a breach of the obligation of a mortgage or transfer of an interest in property, existing law requires the trustee, mortgagee, or beneficiary to record in the office of the county recorder wherein the mortgaged or trust property is situated, a notice of default, and to mail the notice of default to the mortgagor or trustor. Existing law requires the notice to contain specified statements, including, but not limited to, those related to the mortgagor's or trustor's legal rights, as specified. Existing law also requires that the notice of sale in the case of default be posted on the property, as specified.

Until January 1, 2013, and as applied to residential mortgage loans made from January 1, 2003, to December 31, 2007, inclusive, that are for owner-occupied residences, this bill would, among other things, require a mortgagee, trustee, beneficiary, or authorized agent to wait 30 days after contact is made with the borrower, or 30 days after satisfying due diligence requirements to contact the borrower, as specified, before filing a notice of default. The bill would require contact with the borrower, as defined, in order to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure. The bill would require the mortgagee, beneficiary, or authorized agent to advise the borrower that he or she has the right to request a subsequent meeting within 14 days, and to provide the borrower the toll-free telephone number made available by the United States Department of Housing and Urban Development (HUD) to find a HUD-certified housing counseling agency. The bill would require the notice of default to include a specified declaration from the mortgagee, beneficiary, or authorized agent regarding its contact with the borrower or that the borrower has surrendered the property. If a notice of default had already been filed prior to the enactment of this act, the bill would instead require the mortgagee, trustee, beneficiary, or authorized agent, as part of the notice of sale, to include a specified declaration regarding contact with the borrower. The bill would authorize a borrower to designate a HUD-certified housing counseling agency, attorney, or other advisor to discuss with the mortgagee, beneficiary, or authorized agent, on the borrower's behalf,

options for the borrower to avoid foreclosure. The contact and meeting requirements of these provisions would not apply if a borrower has surrendered the property or the borrower has contracted with an organization, as specified. The bill would also require specified mailings to the resident of a property that is the subject of a notice of sale, as specified. In addition, the bill would make it a crime to tear down the notice of sale posted on a property within 72 hours of posting, thereby imposing a state-mandated local program.

Until January 1, 2013, this bill would require a legal owner to maintain vacant residential property purchased at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust. The bill would authorize a governmental entity to impose civil fines and penalties for failure to maintain that property of up to \$1,000 per day for a violation. The bill would require a governmental entity that seeks to impose those fines and penalties to give notice of the claimed violation and an opportunity to correct the violation at least 14 days prior to imposing the fines and penalties, and to allow a hearing for contesting those fines and penalties.

(2) Existing law governs the termination of tenancies and generally requires 30 days' notice of the termination thereof, except under specified circumstances. Existing law also establishes the criteria for determining when a tenant is guilty of unlawful detainer.

Until January 1, 2013, this bill would give a tenant or subtenant in possession of a rental housing unit at the time the property is sold in foreclosure, 60 days to remove himself or herself from the property, as specified.

(3) This bill would set forth specified findings and declarations and intent provisions with regard to the above, and would provide that its provisions are severable.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) California is facing an unprecedented threat to its state economy and local economies because of skyrocketing residential property foreclosure rates in California. Residential property foreclosures increased sevenfold from 2006 to 2007. In 2007, more than 84,375 properties were lost to foreclosure in California, and 254,824 loans went into default, the first step in the foreclosure process.

(b) High foreclosure rates have adversely affected property values in California, and will have even greater adverse consequences as foreclosure rates continue to rise. According to statistics released by the HOPE NOW Alliance, the number of completed California foreclosure sales in 2007 increased almost threefold from 1,902 in the first quarter to 5,574 in the fourth quarter of that year. Those same statistics report that 10,556 foreclosure sales, almost double the number for the prior quarter, were completed just in the month of January 2008. More foreclosures means less money for schools, public safety, and other key services.

(c) Under specified circumstances, mortgage lenders and servicers are authorized under their pooling and servicing agreements to modify mortgage loans when the modification is in the best interest of investors. Generally, that modification may be deemed to be in the best interest of investors when the net present value of the income stream of the modified loan is greater than the amount that would be recovered through the disposition of the real property security through a foreclosure sale.

(d) It is essential to the economic health of California for the state to ameliorate the deleterious effects on the state economy and local economies and the California housing market that will result from the continued foreclosures of residential properties in unprecedented numbers by modifying the foreclosure process to require mortgagees, beneficiaries, or authorized agents to contact borrowers and explore options that could avoid foreclosure. These changes in accessing the state's foreclosure process are essential to ensure that the process does not exacerbate the current crisis by adding more foreclosures to the glut of foreclosed properties already on the market when a foreclosure could have been avoided. Those additional foreclosures will further destabilize the housing market with significant, corresponding deleterious effects on the local and state economy.

(e) According to a survey released by the Federal Home Loan Mortgage Corporation (Freddie Mac) on January 31, 2008, 57 percent of the nation's late-paying borrowers do not know their lenders may offer alternatives to help them avoid foreclosure.

(f) As reflected in recent government and industry-led efforts to help troubled borrowers, the mortgage foreclosure crisis impacts borrowers not only in nontraditional loans, but also many borrowers in conventional loans.

(g) This act is necessary to avoid unnecessary foreclosures of residential properties and thereby provide stability to California's statewide and regional economies and housing market by requiring early contact and communications between mortgagees, beneficiaries, or authorized agents and specified borrowers to explore options that could avoid foreclosure and by facilitating the modification or restructuring of loans in appropriate circumstances.

SEC. 2. Section 2923.5 is added to the Civil Code, to read:

2923.5. (a) (1) A mortgagee, trustee, beneficiary, or authorized agent may not file a notice of default pursuant to Section 2924 until 30 days after contact is made as required by paragraph (2) or 30 days after satisfying the due diligence requirements as described in subdivision (g).

(2) A mortgagee, beneficiary, or authorized agent shall contact the borrower in person or by telephone in order to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure. During the initial contact, the mortgagee, beneficiary, or authorized agent shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the mortgagee, beneficiary, or authorized agent shall schedule the meeting to occur within 14 days. The assessment of the borrower's financial situation and discussion of options may occur during the first contact, or at the subsequent meeting scheduled for that purpose. In either case, the borrower shall be provided the toll-free telephone number made available by the United States Department of Housing and Urban Development (HUD) to find a HUD-certified housing counseling agency. Any meeting may occur telephonically.

(b) A notice of default filed pursuant to Section 2924 shall include a declaration from the mortgagee, beneficiary, or authorized agent that it has contacted the borrower, tried with due diligence to contact the borrower as required by this section, or the borrower has surrendered the property to the mortgagee, trustee, beneficiary, or authorized agent.

(c) If a mortgagee, trustee, beneficiary, or authorized agent had already filed the notice of default prior to the enactment of this section and did not subsequently file a notice of rescission, then the mortgagee, trustee, beneficiary, or authorized agent shall, as part of the notice of sale filed pursuant to Section 2924f, include a declaration that either:

(1) States that the borrower was contacted to assess the borrower's financial situation and to explore options for the borrower to avoid foreclosure.

(2) Lists the efforts made, if any, to contact the borrower in the event no contact was made.

(d) A mortgagee's, beneficiary's, or authorized agent's loss mitigation personnel may participate by telephone during any contact required by this section.

(e) For purposes of this section, a "borrower" shall include a mortgagor or trustor.

(f) A borrower may designate a HUD-certified housing counseling agency, attorney, or other advisor to discuss with the mortgagee, beneficiary, or authorized agent, on the borrower's behalf, options for the borrower to avoid foreclosure. That contact made at the direction of the borrower shall satisfy the contact requirements of paragraph (2) of subdivision (a). Any loan modification or workout plan offered at the meeting by the mortgagee, beneficiary, or authorized agent is subject to approval by the borrower.

(g) A notice of default may be filed pursuant to Section 2924 when a mortgagee, beneficiary, or authorized agent has not contacted a borrower as required by paragraph (2) of subdivision (a) provided that the failure to contact the borrower occurred despite the due diligence of the mortgagee, beneficiary, or authorized agent. For purposes of this section, "due diligence" shall require and mean all of the following:

(1) A mortgagee, beneficiary, or authorized agent shall first attempt to contact a borrower by sending a first-class letter that includes the toll-free telephone number made available by HUD to find a HUD-certified housing counseling agency.

(2) (A) After the letter has been sent, the mortgagee, beneficiary, or authorized agent shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls shall be made to the primary telephone number on file.

(B) A mortgagee, beneficiary, or authorized agent may attempt to contact a borrower using an automated system to dial borrowers, provided that, if the telephone call is answered, the call is connected to a live representative of the mortgagee, beneficiary, or authorized agent.

(C) A mortgagee, beneficiary, or authorized agent satisfies the telephone contact requirements of this paragraph if it determines, after attempting contact pursuant to this paragraph, that the borrower's primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected.

(3) If the borrower does not respond within two weeks after the telephone call requirements of paragraph (2) have been satisfied, the mortgagee, beneficiary, or authorized agent shall then send a certified letter, with return receipt requested.

(4) The mortgagee, beneficiary, or authorized agent shall provide a means for the borrower to contact it in a timely manner, including a toll-free telephone number that will provide access to a live representative during business hours.

(5) The mortgagee, beneficiary, or authorized agent has posted a prominent link on the homepage of its Internet Web site, if any, to the following information:

(A) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options.

(B) A list of financial documents borrowers should collect and be prepared to present to the mortgagee, beneficiary, or authorized agent when discussing options for avoiding foreclosure.

(C) A toll-free telephone number for borrowers who wish to discuss options for avoiding foreclosure with their mortgagee, beneficiary, or authorized agent.

(D) The toll-free telephone number made available by HUD to find a HUD-certified housing counseling agency.

(h) Subdivisions (a), (c), and (g) shall not apply if any of the following occurs:

(1) The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the mortgagee, trustee, beneficiary, or authorized agent.

(2) The borrower has contracted with an organization, person, or entity whose primary business is advising people who have decided to leave their

homes on how to extend the foreclosure process and avoid their contractual obligations to mortgagees or beneficiaries.

(3) The borrower has filed for bankruptcy, and the proceedings have not been finalized.

(i) This section shall apply only to loans made from January 1, 2003, to December 31, 2007, inclusive, that are secured by residential real property and are for owner-occupied residences. For purposes of this subdivision, “owner-occupied” means that the residence is the principal residence of the borrower.

(j) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 3. Section 2923.6 is added to the Civil Code, to read:

2923.6. (a) The Legislature finds and declares that any duty servicers may have to maximize net present value under their pooling and servicing agreements is owed to all parties in a loan pool, not to any particular parties, and that a servicer acts in the best interests of all parties if it agrees to or implements a loan modification or workout plan for which both of the following apply:

(1) The loan is in payment default, or payment default is reasonably foreseeable.

(2) Anticipated recovery under the loan modification or workout plan exceeds the anticipated recovery through foreclosure on a net present value basis.

(b) It is the intent of the Legislature that the mortgagee, beneficiary, or authorized agent offer the borrower a loan modification or workout plan if such a modification or plan is consistent with its contractual or other authority.

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 4. Section 2924.8 is added to the Civil Code, to read:

2924.8. (a) Upon posting a notice of sale pursuant to Section 2924f, a trustee or authorized agent shall also post the following notice, in the manner required for posting the notice of sale on the property to be sold, and a mortgagee, trustee, beneficiary, or authorized agent shall mail, at the same time in an envelope addressed to the “Resident of property subject to foreclosure sale” the following notice in English and the languages described in Section 1632: “Foreclosure process has begun on this property, which may affect your right to continue to live in this property. Twenty days or more after the date of this notice, this property may be sold at foreclosure. If you are renting this property, the new property owner may either give you a new lease or rental agreement or provide you with a 60-day eviction notice. However, other laws may prohibit an eviction in this circumstance or provide you with a longer notice before eviction. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights you may have.”

(b) It shall be an infraction to tear down the notice described in subdivision (a) within 72 hours of posting. Violators shall be subject to a fine of one hundred dollars (\$100).

(c) A state government entity shall make available translations of the notice described in subdivision (a) which may be used by a mortgagee, trustee, beneficiary, or authorized agent to satisfy the requirements of this section.

(d) This section shall only apply to loans secured by residential real property, and if the billing address for the mortgage note is different than the property address.

(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 5. Section 2929.3 is added to the Civil Code, to read:

2929.3. (a) (1) A legal owner shall maintain vacant residential property purchased by that owner at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust. A governmental entity may impose a civil fine of up to one thousand dollars (\$1,000) per day for a violation. If the governmental entity chooses to impose a fine pursuant to this section, it shall give notice of the alleged violation, including a description of the conditions that gave rise to the allegation, and notice of the entity's intent to assess a civil fine if action to correct the violation is not commenced within a period of not less than 14 days and completed within a period of not less than 30 days. The notice shall be mailed to the address provided in the deed or other instrument as specified in subdivision (a) of Section 27321.5 of the Government Code, or, if none, to the return address provided on the deed or other instrument.

(2) The governmental entity shall provide a period of not less than 30 days for the legal owner to remedy the violation prior to imposing a civil fine and shall allow for a hearing and opportunity to contest any fine imposed. In determining the amount of the fine, the governmental entity shall take into consideration any timely and good faith efforts by the legal owner to remedy the violation. The maximum civil fine authorized by this section is one thousand dollars (\$1,000) for each day that the owner fails to maintain the property, commencing on the day following the expiration of the period to remedy the violation established by the governmental entity.

(3) Subject to the provisions of this section, a governmental entity may establish different compliance periods for different conditions on the same property in the notice of alleged violation mailed to the legal owner.

(b) For purposes of this section, "failure to maintain" means failure to care for the exterior of the property, including, but not limited to, permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers or squatters from remaining on the property, or failing to take action to prevent mosquito larvae from growing in standing water or other conditions that create a public nuisance.

(c) Notwithstanding subdivisions (a) and (b), a governmental entity may provide less than 30 days' notice to remedy a condition before imposing a

civil fine if the entity determines that a specific condition of the property threatens public health or safety and provided that notice of that determination and time for compliance is given.

(d) Fines and penalties collected pursuant to this section shall be directed to local nuisance abatement programs.

(e) A governmental entity may not impose fines on a legal owner under both this section and a local ordinance.

(f) These provisions shall not preempt any local ordinance.

(g) This section shall only apply to residential real property.

(h) The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law.

(i) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 6. Section 1161b is added to the Code of Civil Procedure, to read:

1161b. (a) Notwithstanding Section 1161a, a tenant or subtenant in possession of a rental housing unit at the time the property is sold in foreclosure shall be given 60 days' written notice to quit pursuant to Section 1162 before the tenant or subtenant may be removed from the property as prescribed in this chapter.

(b) This section shall not apply if any party to the note remains in the property as a tenant, subtenant, or occupant.

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 7. Nothing in this act is intended to affect any local just-cause eviction ordinance. This act does not, and shall not be construed to, affect the authority of a public entity that otherwise exists to regulate or monitor the basis for eviction.

SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 10. (a) This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to stabilize and protect the state and local economies and housing market at the earliest possible time, it is necessary for this act to take effect immediately.

(b) However, the provisions of Section 2 of this act, which adds Section 2923.5 to the Civil Code, and Section 4 of this act, which adds Section 2924.8 to the Civil Code, shall become operative 60 days after the effective date of this act.