TOWN OF FAIRFAX
STAFF REPORT

Date: August 1, 2012

To: Mayor and Members of the Town Council

From: John Reed, Vice Mayor

Subject: Discussion/Consideration of enacting an ordinance to give the Town of Fairfax further tools to abate fire danger from unmaintained bank-owned properties

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RECOMMENDATION

It is recommended the Town Council discuss the matter and consider the introduction of an ordinance like the ones adopted by Oakland or Richmond at a future meeting.

BACKGROUND/ANALYSIS

The cities of Oakland and Richmond have both developed ordinances to deal with the problem of Bank-owned properties languishing in a state of disrepair, and unresponsive banks. Fairfax has several of these, a prime example being 84 Pine. This property is very overgrown, poses a threat to the neighborhood surrounding it, and has received several attempts to rectify the situation. The alleged owner for 5 years, Bank of America, has been unresponsive to date. An ordinance could give the Town additional power to abate, as well as money in terms of fines. The cities of Oakland and Richmond's ordinances deal with much more than fire, though it may be argued that fire is potentially a bigger danger than some problems, as the effects are significantly catastrophic.

Letter documenting efforts of a neighbor of 84 pine:
>Greetings,
>
>The people who owned 84 Pine Drive had to leave their house, 4-5 years ago, after it lost too much value. Bank of America now owns it. Last year my neighbor below me (and next door to 84) began calling BofA and complaining about the fire hazard. The bank said they would send someone out last summer to take care of the hazard but never did.
>
>This year, on 5-16-12, I contacted The Property Preservation Department of BofA, in Texas, at 866-515-9759, and spoke to Jennifer. She was not interested in the situation until I said how much of a fire threat it was to our entire hillside. She then said she would have it cleaned up. She gave me a work order number: Ticket #107-094-30 and said that if it were not cleaned up in 2-3 weeks to call her back.
>
>It was not so on 6-15-12 I called her back. She said that she had passed the ticket on and couldnt do anything more. I reiterated what a threat it was and asked her to contact the person and see that the work was done. She said she would but nothing has happened.
>
>Oakland has just passed an ordinance to deal with problems created by abandoned houses. Although its addressing a different set of problems I am hoping, as a town, we can consider

AGENDA ITEM # 15

some kind of " public safety hazards" ordinance that prevents banks from evading their responsibility to abate a fire hazard such as is now at Pine Drive. It could also strengthen the towns hand in dealing with any problem related to abandoned properties - not to mention generate income for the town in the form of penalties and fees.
>
>If a fire started at 84 Pine Drive, no one would know and it would go right up the grassy hill of my neighbor on my right side (225 Laurel) into her porch, house, trees and set fire to my house and to the whole neighborhood. My understanding is that our hill - especially its southern exposure is one of the hottest, steepest hills in Marin and for us up here there is no escape.
>
>Thank you, Denny Ferry

FISCAL IMPACT
None

ATTACHMENT

News articles about Oakland and Richmond's efforts

Oakland law would pressure banks over blight

Matthai Kuruvila
Published 09:01 p.m., Tuesday, May 15, 2012

The Oakland City Council unanimously expanded an aggressive blight program late Tuesday to include homes in the earliest stages of the foreclosure process.

Banks would be required to register homes in a city blight database the moment they send homeowners a notice of default, which is typically issued after three months of missed payments.

Banks would have to visit the homes once a month and gauge from the outside whether the house is occupied. If vacant, banks would be forced to pay a $568 annual registration fee, hire a property manager, secure the premises and maintain the home and yard. The city hopes to use some of the fees to help homeowners avoid foreclosure.

"Once you have a blighted house on a block, it brings down the value of all the houses on the block," said Councilwoman Jane Brunner, the measure's sponsor. "It is the bank that gave the notice of default, so they triggered the whole process."

But lenders say they are puzzled by the move. After all, they say, they don't own the homes when a default notice is sent out, thus they do not understand how they can be held responsible for blight conditions.

'Not fair to Oakland'

"You're asking us to come in and maintain homes that legally aren't the bank's property yet," said Beth Mills, a spokeswoman for the California Bankers Association, which represents 200 financial institutions in the state.

An Oakland Metropolitan Chamber of Commerce official, Paul Junge, said at Tuesday's meeting that 80 percent of Oakland homes are merely serviced by banks and held by others, such as Fannie Mae and Freddie Mac.

Brunner retorted that the banks' role should not minimize their responsibility for maintaining properties.

"If you don't want to be in the servicing business, get out of it," Brunner said. "It's not fair to Oakland. It's not fair to the residents."

The city says that last year 1,342 homes were foreclosed, and 3,347 homeowners were sent notices of default. Roughly half of defaulted homes financed by banks are blighted, according to a city analysis. The disrepair can be easy to spot.

On the 2600 block of 79th Avenue in East Oakland, three homes sat in disarray and appeared abandoned.

One home had so much trash, the owner put up a fence to keep people out, but the front door was open. Another had a foreclosure notice posted on a fence, and a pile of baby clothes reeking of feces in the backyard. The third had a blight notice on the front door, and four mattresses in the yard.

Neighbor Latanya Cotton, who works hard to maintain her own home, said she's frustrated.

'Tired' of neighbors

"We try to keep our place up," she said. But "we're just real tired of these neighbors."

The city says the ordinance will give them a jump on tackling potential problems quickly.

The city wants banks to register defaulted properties so it can get early and accurate information, said Margaretta Lin, who directs strategic initiatives for the Department of Community and Housing Development.

The city's existing system results in liens and fines for blighted homes, including those under default. Under the new proposal, the city will only enforce blight complaints during the default period if they are public safety hazards, said Lin.

Dealing with blighted homes in default, Lin said, is "not something the city is able to fix on its own."

Fee, penalty for blight

Since 2010, the city has had a program dealing with foreclosed homes. Banks were charged a $1,700 fee for blighted and foreclosed properties and a penalty of $1,000 a day if they failed to clean up on a required timeline. It has brought in more than $1.6 million in penalties and fees.

Beverly Williams said the program has had an effect. A foreclosed home on her block became a magnet for junk.

"Whatever people can dump, they would dump," said Williams, 63, a lifelong Oakland resident. "Clothing, garbage bags, mattresses and even tires. ... Because of this ordinance, someone was out there in three days cleaning it out."

San Francisco Chronicle staff photographer Brant Ward contributed to this report. Matthai Kuruvila is a San Francisco Chronicle staff writer. Twitter: @matthai. mkuruvila@sfchronicle.com

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Richmond wants banks to fight blight

Carolyn Said
Updated 10:07 p.m., Saturday, July 14, 2012

Standing near a jumble of old tires, paint cans, a ripped couch and other debris in the yard of an abandoned house in North Richmond near Interstate 580, Marquita Ealy said she was fed up with vacant foreclosures that attract crime and blight.

"If we don't try to change things, Richmond will be trash," she said. "I live across the street. When I take my 3-year-old granddaughter to the park, she asks me, 'Granny, why is all that stuff there?' "

A couple dozen Richmond residents wearing bright yellow T-shirts from the Alliance of Californians for Community Empowerment clustered outside, urging the city to act aggressively to combat foreclosure blight. Then they boarded a chartered bus to tour some bank -owned properties.

They definitely had the city's ear: Mayor Gayle McLaughlin, Code Enforcement Manager Tim Higares, City Council candidate Eduardo Martinez and a representative from Supervisor John Gioia's office joined in the tour.

Richmond is among the Bay Area cities hardest hit by the housing downturn. One in every 212 Richmond households, about 1,025 properties, received a foreclosure filing last month, according to RealtyTrac.com. That rate of 0.47 percent of homes in the foreclosure pipeline exceeds the state's 0.35 percent rate and the national rate of 0.15 percent.

Murmurs of "Oh my" and "Look at that" rose from the residents as they passed a burned-out shell recently fenced off by the city, several boarded-up properties, a couple of which had young men hanging around outside.

"I've seen people use these houses for prostitution," said Rhonda Godfrey, who lives near Sixth Street.

The bus stopped at a trash-strewn alleyway.

'Dumping ground'

"Richmond has become an illegal dumping ground," said Higares, the code enforcement manager.

Many of the problems are intractable, he noted. "Even if a house is boarded up, people may hang around the perimeter," he said. "Look at that house: Some boards are torn off, so the chances are it's been breached. You have to constantly monitor."

But with a staff of nine, that's a big task. He has just one code enforcement officer for the entire Iron Triangle, for instance. A recent block-by-block survey found 463 vacant properties in the city, many of them blighted, he said. He couldn't break out how many were foreclosures, but said he assumed a high portion were.

"We need more eyes," he said. "We've overwhelmed."

The city might consider partnering with ACCE to put together a volunteer neighborhood force to monitor blight.

Focus on banks

But to really combat the problem, Richmond wants to force banks to take responsibility for the houses they repossess - even before they fully foreclose on them.

McLaughlin, the mayor, stood on the sidewalk outside a red-tagged house and said the city would move aggressively to get banks to step up.

"I want to hold banks accountable and make sure they're upkeeping their properties," she said. "Sometimes they're quite negligent. We need to tighten our ordinances to the extent we can."

McLaughlin said she'd like to see Richmond adopt an ordinance like one the Oakland City Council passed in June that will take effect Aug 1. It calls for banks to register properties with the city as soon as they receive a notice of default (the first step in the foreclosure process); to conduct monthly drive-by inspections of all defaulted properties; and to secure and maintain vacant properties.

Margaretta Lin, who as special projects director for Oakland oversees its foreclosure programs, said the ordinance came about after city inspections found that more than half of defaulted properties were blighted.

"If banks become involved at the notice of default stage and track the conditions of these properties, it can prevent bigger problems down the road," she said.

But banks say it's unfair to ask them to assume responsibility for homes they don't own.

"It opens a can of worms to require lenders to essentially take ownership of a property before they are legally supposed to do so," said Dustin Hobbs, spokesman for the California Mortgage Bankers Association. "It's a bad precedent to set to assume every home that goes into default will go into foreclosure. And there is almost 300 days' worth of lag time between filing of the notice of default and a foreclosure."

Once a bank has legally taken back a house in foreclosure, "lenders absolutely are responsible for keeping up the property," Hobbs said. "They have every incentive, both morally and financially."

Lin said a pilot project with Wells Fargo, in which a bank official with decision-making power was in contact with the city, proved successful in helping the city address issues with its properties. "Otherwise we'd be scratching our heads about who to talk to; there are so many different arms of these large institutions," she said.

Blight ordinances

Both Oakland and Richmond, like other foreclosure-ridden California cities, have blight ordinances that let them fine owners $1,000 day if foreclosures don't get cleaned up after a certain amount of notice.

Oakland has brought in $1.6 million in fees and penalties, Lin said. Richmond has collected more than $500,000, Higares said.

Higares said he will go to the Richmond City Council on Tuesday for approval to levy $658,465 in liens against blighted properties.

At the trash-littered house across the street from Ealy - and also across from a park - contractors hired by Bank of America were tossing junk into the back of a pickup truck. Higares said the bank hired the contractors within two days - a quick response time - when it was notified of the property's condition.

Inside the house, the walls and carpets were smeared with filth; light fixtures dangled from the ceilings, and a persistent smell of urine and mold filled the air.

"This is a typical example of what we find," said Lorena Burciaga, a Richmond code enforcement officer.

Carolyn Said is a San Francisco Chronicle staff writer. E-mail: csaid@sfchronicle.com

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