TRANSMITTAL

To:	**THE COUNCIL**	Date:	**06/23/20**
From:	**THE MAYOR**		

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.

(Ana Guerrero) for

ERIC GARCETTI
Mayor

Los Angeles
HOUSING+COMMUNITY
Investment Department

Eric Garcetti, Mayor
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June 12, 2020

Honorable Eric Garcetti
Mayor, City of Los Angeles
200 North Spring Street, Room 303
Los Angeles, CA 90012

Attention: Heleen Ramirez, Legislative Coordinator

COUNCIL TRANSMITTAL: REQUEST FOR AUTHORITY TO MAKE TECHNICAL AMENDMENTS TO THE FORECLOSURE REGISTRY PROGRAM ORDINANCE AND THE HOUSING REGULATIONS OF THE LOS ANGELES MUNICIPAL CODE (LAMC), ARTICLE 4 OF CHAPTER XVI

SUMMARY

In accordance with the Mayor's Executive Directive No. 3, the General Manager of the Los Angeles Housing + Community Investment Department (HCIDLA) respectfully requests that your office review and approve this transmittal and forward it to the City Council for further consideration. Through this transmittal, HCIDLA seeks approval, and requests authority to amend certain provisions within Article 4 of Chapter XVI (Housing Regulations) of the Los Angeles Municipal Code (LAMC). The Department is seeking to exempt certain categories of lenders from the provisions of the ordinance, clarify certain definitions and enhance efficiency of the ordinance's goals. These technical amendments also will introduce a new review process to assess fee and penalty waivers assessed against lenders and increase the efficiency and effectiveness of the administration of the Foreclosure Registry Program. HCIDLA is also reporting on the achievements of the Foreclosure Registry Program.

In tandem with the Office of the City Attorney, HCIDLA has developed these proposed ordinance amendments based on the experience gained and feedback elaborated with foreclosure partners.

RECOMMENDATIONS

I. That the Mayor review this transmittal and forward to City Council for further action;

II. That the City Council, subject to the approval of the Mayor:

A. INSTRUCT the City Attorney to work with the HCIDLA to amend Article 4 of Chapter XVI, Sections 164.00 and following, of the LAMC pursuant to the recommendations contained in this report, as well as any other pertinent and relevant provisions that the City Attorney may deem necessary to carry on the recommended changes;

B. AUTHORIZE the amendment of technical provisions.

BACKGROUND

The Foreclosure Registry Program (C.F. No. 09-0365; Ordinance No. 181185) enacted by the City Council on July 8, 2010, is governed by the provisions of Los Angeles Municipal Code § 164.00, et seq. The Foreclosure Registry Program (hereinafter Program) was established as a mechanism to protect the economic stability and viability of residential neighborhoods, prevent blight deriving from the lack of adequate maintenance of residential properties in foreclosure, and further monitor the status of residential communities in Los Angeles to ensure their safety in the wake of a foreclosure crisis. The Program is also meant to protect the public from health and safety hazards, while reducing further compromise of neighboring property values that result from the neglect and deterioration of real property. The Program was amended effectively on December 20, 2014 (C.F. No. 12-0647-S6; Ordinance No. 183281) to add proactive inspections by the City, monthly lender inspection reporting requirements for properties in foreclosure, and further refine details on non-compliance penalties and enforcement.

When property owners are delinquent on mortgage payments, lenders/beneficiaries, trustees, or affiliated agents are required to register online with the HCIDLA within thirty days from the time they file a Notice of Default (NOD) with the Los Angeles County Recorder's Office. The registrant is required to provide contact information for the lender or any servicers or agents, identify a local property management company if the lender is located out of the area, and pay the annual registration fee of $150. The lender/beneficiary or trustee is also required to conduct monthly inspections of these properties, provide their inspection reports to HCIDLA, and maintain the property. Failure to comply with the registration requirements of the FRO can result in HCIDLA issuing a Notice of Non-Compliance with potential daily penalties in the amount of $250 per day, up to a maximum total of $100,000. The first Notices of Non-Compliance (NNCs) under the Program were issued on August 20, 2014.

In the Program's ten years of existence, 79,790 properties have been registered with HCIDLA. From 2015 through the end of 2019, a total of 144,328 inspections have been conducted on properties in foreclosure. Additionally, a total of $26,512,520 has been collected through the Program as of May 1, 2020, broken down amongst A) $12,447,395 in registration fees, B) $13,426,105 in penalty fees, and C) $639,020 in proactive inspection fees.

Constant analysis and refinement based on incorporating feedback has helped to overcome several logistical and operational challenges, successfully adapting operations and procedures to achieve the intent and goals of the Program more effectively and efficiently. Therefore, HCIDLA would like to report back to the Council on the following significant achievements and successes of the Program, and further propose Ordinance amendments to better serve the intent of the Ordinance.

INSPECTIONS

With blight prevention in Los Angeles neighborhoods being the core of the Ordinance since the amendment revisions in 2014, the inspection aspect of the Program has been a key function and consists of three different inspections: 1) monthly inspections conducted by lenders and their agents; 2) inspections performed by HCIDLA Foreclosure Registry Inspector on occupied multi-family properties and verification of the lenders' inspections; and 3) inspections conducted by Los Angeles Department of Building & Safety (LADBS) on vacant multi-family and all single-family properties. HCIDLA has increased inspections every year on the exterior of properties in foreclosure, from 460 Foreclosure Registry staff inspections in 2015 to 3,260 inspections in 2019, a sevenfold increase, resulting in a 96% compliance rate. With lenders proactively conducting inspections, and inspections conducted by HCIDLA and LADBS for properties in foreclosure, in 2019 a total of 16,140 inspections were performed, preventing blight in residential communities in Los Angeles.

GEOREGISTRY

HCIDLA originally developed the GeoRegistry system to connect different City Departments to work together and share foreclosed properties' information to prevent blight in residential communities. HCIDLA enhanced and relaunched the GeoRegistry in 2019, adding a comprehensive and interactive public portal to this geo-spatial website, which provides mapping of each property's location and their neighborhood. This portal enables the user to filter this information in various ways (such as basing it on Council Districts, Neighborhood Councils, or properties in foreclosure in a determined geographic radius), gives information on status of the foreclosure and condition of the property, and provides a platform to file a complaint on the condition of the property. Moreover, the website's redesign brought disparate components into alignment for a fully functional and cohesive database, including linking it to other pertinent databases and resources such as the City's 311 call center. The website also serves as a collaborative tool for both the City and the public to report, monitor, and resolve issues with properties in foreclosure. As a result, multiple City Departments - including, but not limited to, Los Angeles Police Department (LAPD), Los Angeles Fire Department (LAFD), LADBS, Office of the City Attorney, Neighborhood Prosecutors, and Council Offices - other external entities, and members of the general public can all access, track, and share information regarding these properties, providing critical information necessary to bring properties in foreclosure into habitable conditions, contributing to the Program's intent to eliminate blight in residential communities. For example, on a recent foreclosed property which had exterior blight and criminal activity reported on site, GeoRegistry connected the HCIDLA Foreclosure Registry Unit, the local Council Office, LAPD, LADBS, the Office of the City Attorney, and the Neighborhood Prosecutor to collaborate with the former lender/current property owner and the loan servicer, in order to share resources and information necessary to remove violations on site and bring the property into compliance.

- GeoRegistry Public Website: https://hcidapp.lacity.org/GeoForeclosure

- GeoRegistry City (Internal) Website: http://fimsgeo.lahd.ci.la.ca.us/

REPORTING

After the development of GeoRegistry, to increase communication of foreclosure data with the Council Offices, HCIDLA has developed a set of Council District reports to provide the Council Members with summaries of the Foreclosure Registry Program for their pertinent districts, in comparison with the City-wide foreclosure data. The report includes precise mapping of foreclosed properties in each Council District, a detailed list of the properties in foreclosure, and also identifies problem properties that have unresolved cited Housing and Building Code violations. The first set of reports were delivered in May 2020 to the Council Offices, and will continue to be issued on a quarterly basis going forward. The information contained in these reports can be used for strategic planning and decision-making, such as further development of programs aimed at preventing foreclosure.

AUTOMATION

With tens of thousands of properties registered by the lenders/servicers with HCIDLA via the online portal during foreclosure, the process of de-registration (change of status) in the Foreclosure Registry requires accurate and timely review of multiple pertinent documents to verify the foreclosure status and whether the property is no longer in foreclosure and therefore not being subject to the Ordinance. The Foreclosure Registry Unit acquired numerous foreclosure data and documents from a reliable private data provider and utilized that to automate the majority of reviews of the properties' foreclosure status and NODs. Accordingly, HCIDLA successfully transitioned from lengthy manual case and document reviews to a nearly fully-automated case review process, reducing time, labor, and enhancing the accuracy and completeness of the data in the Foreclosure Information Management System (FIMS) and the GeoRegistry. Upon implementation in 2018, the de-registration automation resulted in over 26,000 systematic de-registrations from FIMS, drastically reducing the review time for these properties and ensuring greater accuracy and timeliness of both FIMS and GeoRegistry data systems, as well as enhancing customer satisfaction, as a result of accurate data on the status of the properties.

COLLECTIONS

Enforcing the registration requirement of the Program, HCIDLA issued the first batch of NNCs to delinquent lenders in 2014, which were mailed to the entity and the addresses listed on their corresponding NOD, in accordance with the Ordinance requirements, requiring registration of the properties within thirty days, to avoid assessment of penalties in the amount of $250 daily and with a cap of $100,000. However, many NNCs went unanswered, causing penalty fees to accrue in large amounts, impacting many properties' compliance with the Ordinance and requiring extensive staff resources to research, verify, and reach these organizations in order to resolve non-compliance issues and past-due fee and penalty balances.

HCIDLA has considerably increased the communication and outreach efforts to the pertinent lending agencies, with three main actions: 1) creating and updating a comprehensive database of foreclosure contacts from each lending organization to swiftly reach responsible parties in each of the lending agencies, as needed, and resolve blight, registration, or other compliance issues; 2) drastically increasing communications to relevant contacts, via phone calls, individual and mass emails, and courtesy copies of letters and notifications, encouraging compliance and improving the registration rates and collection of unpaid fees; and 3) increasing the collection activities especially for substantial portions of outstanding past-due balances, in collaboration with the Office of the City Attorney, by leveraging existing citywide relationships with financial institutions - including the Government Relations contacts at major banks and through Council-approved settlement agreements. The enhanced outreach and collection activities were instrumental towards securing overall revenue collection of more than $26.5 million in full at 100%, with only 4.9% of the total past due amount discounted as compromised, as of May 1, 2020.

These work-process enhancements also resulted in substantially reducing negative impacts of the foreclosures in our residential communities due to combining the enforcement of other Ordinance provisions in fee collection activities. This exceptional collection of revenues could not be achieved without the assistance and close collaboration with the Office of the City Attorney.

FORECLOSURE TRENDS

During the last decade, there has been a year-over-year positive trend in the reduction of foreclosure filings nationwide, demonstrating that the distress incurred from the 2008 housing crisis is being relieved over time. This has been reflected specifically in Los Angeles during the last few years, including a 3% reduction in recordings of NODs from 2018 to 2019.

New NOD Recordings in Los Angeles	*Year 2016*	*Year 2017*	*Year 2018*	*Year 2019*
	5,053	4,179	3,471	3,371
Trend from previous year	--	↓ 17%	↓ 17%	↓ 3%

However, due to the COVID-19 pandemic emergency, this downward trend is expected to change drastically. Recent Executive Orders issued by the State of California in March 2020 in response to the COVID-19 pandemic, including a temporary moratorium on foreclosures (Executive Order N-28-20), together with numerous lenders' forbearances on mortgage payments for property owners impacted by the pandemic, the Governor's agreement with several prominent banks to offer a 90-day mortgage deferment, as well as the recent Federal Housing Finance Agency (FHFA) announcement on May 14, 2020 - extending the Foreclosure Moratorium that applies to Enterprise-backed single family mortgages until June 30, 2020 - are all provisional; full payment of mortgages will be due at the end of these deferment periods. The impact of these temporary actions explain the decrease in the number of NODs filed in March and April of 2020, as shown in the table below.

NOD Recordings in Los Angeles	*Year 2019*	*Year 2020*	2020 trend
February	294	289	↓ 1.7%
March	361	276	↓ 23.5%
April	355	98	↓ 72.4%

The staggering job losses suffered through March, April and May 2020 have increased the Los Angeles unemployment rate to a stunning 24%, as confirmed by the Mayor. Accordingly, reports show that across the U.S by the first week of April a quarter of Americans failed to pay in full their housing bills, increasing up to 31% in May, and a similar rate applies for renters and property owners with mortgages. With great future economic uncertainties due to the pandemic crisis, after some initial cushioning from equity buffers, lower mortgage interest costs, government support and forbearance programs, HCIDLA expects delinquency rates to jump significantly, as the COVID-19 toll on the economy becomes more evident.

PROPOSED TECHNICAL AMENDMENTS

Enforcement Exemptions + Fee and Penalty Waiver Procedure

In the Program's ten years of existence, constant assessment of its effectiveness has required certain modifications in order to streamline the process to better serve the purpose of the Program. The Ordinance was passed to ensure lenders would make efforts to properly maintain properties in foreclosure. The implementation phase did not take into consideration that there are a number of small-scale individual lenders (hereinafter alternatively also referred to as natural persons) who operate incidentally in the foreclosure business.

Such lenders are very particular, as they are not involved in the industry's lending sector at professional level; they may only make a single or a limited number of loans which end in default, and do not necessarily have the comparable resources as other major banks and lending organizations to follow, track, and ensure compliance with the Ordinance. These small-scale individual lenders face a hardship in terms of compliance with the Ordinance requirements, and likely also experience financial hardship in response to penalty fees assessed for any violations of the Ordinance.

As of the first quarter of 2020, there are not more than 44 delinquent individual lenders on record who have incurred penalties for 50 properties, whose delinquencies resulted in assessment of a total $2,084,915 fees and penalties owed. Of these 50 properties, the average foreclosure period is slightly less than three years, and 36 are no longer in foreclosure.

To this end, the need for an exemption for the natural persons who act as lenders on a non-professional basis has arisen, leading to the recommendation to amend the Ordinance, providing retroactive exemptions for individual lenders. The introduction of an enforcement exemption would allow individual lenders to carry on with their small-scale lending activity without being subject to the provisions of the Ordinance. This measure would not entail reduction of the health and safety level required for properties across Los Angeles, as there are existing programs monitoring the conditions of the properties, namely the Systematic Code Enforcement Program (SCEP) for residential rental multi-family dwellings and the complaint-based inspections for single-family and vacant multi-family residential units. Therefore, HCIDLA recommends the introduction of a retroactive exemption from the Ordinance for such individual lenders.

Under the current regulatory scheme, upon requests from lenders to review fees and/or penalties assessed, the Foreclosure Registry Unit staff conducts account reviews, and if it is determined that the fees and/or penalties were erroneously assessed, HCIDLA processes a fee and/or penalty waiver. Amending the Ordinance to allow for this fee and penalty waiver process both for individual lenders who may be retroactively exempted from the Ordinance and also for those who may qualify for this exemption upon individual review on a case-by-case basis will bring the enforcement process more in line with the original intent and purpose of the Ordinance.

Additional Technical Amendments

Additional technical amendments are recommended to simplify procedures and provide clarity to the LAMC. The following technical amendments will streamline the process related to the foreclosure registry program:

- Quarterly inspections: according to the input from the foreclosure partners, a shift from monthly to quarterly inspections would not affect the goal of ensuring proper maintenance of properties in foreclosure, while allowing for an increase in efficient use of resources available.
- The addition of "Real Estate Owned (REO)" definition to better reflect the factors involved.
- The substitution of the words "person" and/or "individual" to better identify the concept of "lender" as a professional organization and not an incidental role.
- Exemption of the FRO enforcement for loans being backed or owned by the Government.
- The retroactive application of the individual lender's exemption.
- Formal appeals process.
- Clarification that securitization trustee and servicer are responsible parties under the ordinance.
- Specify actions that could prohibit a beneficiary from compliance with the FRO, including bankruptcies, as well as the declaration of a major disaster area, which provides for an automatic 90-day foreclosure moratorium.

FISCAL IMPACT STATEMENT

There is no impact on the General Fund.

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ATTACHMENT:

Amendments

TECHNICAL AMENDMENTS PROPOSAL TO THE FORECLOSURE REGISTRY PROGRAM AND HOUSING REGULATIONS OF THE LOS ANGELES MUNICIPAL CODE, ART. 4, CHAPTER XVI				
Item Number	**Section Number**	**Current Language**	**Proposed Language (changes underlined and in bold)**	**Comments**
1	161.02.C	"Beneficiary" means a lender or other person or entity holding, owning, participating in, or otherwise having an interest in the proceeds of a loan represented by a note secured by a deed of trust.	"Beneficiary" means a lender or entity holding, owning, participating in, or otherwise having an interest in the proceeds of a loan represented by a note secured by a deed of trust, or a person or entity representing the beneficiary in a trust capacity.	Provides clarification
2	161.02.M	None	**M. "Individual Lender" means a natural person serving as the beneficiary on a Deed of Trust.**	Provides definition
3	161.02.T	None	**T. "REO" (Real Estate Owned) means a property for which title has reverted to the lender as the result of a foreclosure auction in which the subject property failed to sell via an arms-length transaction to a third party (a party other than the original beneficiary).**	Provides definition
4	161.02.X	None	**X. "Mortgage loan owned or backed by Government" includes the following definitions (...)**	Provides definition
5	161.02	None	**Re-Letter all Definitions after "M" to go in alphabetical order once above insertions are added**	Provides clarification
6	164.03	Within 10 days of the purchase and/or transfer of a loan and/or deed of trust secured by property the new beneficiary and/or trustee shall record, with the Los Angeles 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 and/or trustee responsible for receiving payments associated with the loan and/or deed of trust.	Within 10 days of the purchase and/or transfer of a loan and/or deed of trust secured by property the new beneficiary and/or trustee shall record, with the Los Angeles County Recorder's Office, an assignment of rents, or similar document, that lists the name of the **new beneficiary along with the mailing address and contact phone number of either the beneficiary or any agent, servicer, and/or trustee** responsible for receiving payments associated with the loan and/or deed of trust.	Provides clarification
7	164.04.C.4	The registration required by this section shall also include: the name of the beneficiary and/or trustee (corporation or individual); the direct street and/or office mailing address of the beneficiary and/or trustee; a direct contact name and phone number for the beneficiary and/or trustee; and, in the case of a corporation or out of area beneficiary and/or trustee, the local property management company responsible for the security, maintenance, inspection and marketing of the property. Post office boxes do not constitute an acceptable address.	The registration required by this section shall also include: the name of the beneficiary **(along with the name of any agent/trustee/servicer responsible for managing the foreclosure, if any)**; the direct street and/or office mailing address of the beneficiary and/or **agent;** a direct contact name and phone number for the beneficiary and/or **agent**; and, in the case of a corporation or out of area beneficiary and/or **agent**, the local property management company responsible for the security, maintenance, inspection and marketing of the property. Post office boxes do not constitute an acceptable address.	Provides clarification

8	164.04.D.1	Any person, firm or corporation that has registered a property under this article must report any change of status or information contained in the registration to HCID within 10 calendar days of the change. This includes, but is not limited to, a change in the property servicer or management, change in occupancy status and bank owned	Any **entity**, firm or corporation that has registered a property under this article must report any change of status or information contained in the registration to HCID within 10 calendar days of the change. This includes, but is not limited to, a change in the property servicer or management, change in occupancy status and bank owned	Provides clarification
9	164.05.BIS	None	**REGISTRATION EXEMPTION**	New Section Title
10	164.05.BIS	None	**Exemptions from enforcement of Los Angeles Municipal Code ART. 4, CHAPTER XVI provisions is allowed for the following: 1) Individual Lender; 2) Mortgage loans owned or backed by Government.**	Introduces Exemptions from application of Foreclosure Registry Program
11	164.05.BIS	None	**The exemption for any Individual Lender can be retroactive to the moment of the expected registration.**	Introduces retroactive exemption for Individual Lender
12	164.05.TER	None	**REGISTRATION STAY**	New Section Title
13	164.05.TER	None	**A temporary stay from enforcement of Los Angeles Municipal Code ART. 4, CHAPTER XVI provisions is allowed for the following: 1) Court or administrative actions, such as bankruptcy; 2) Governmental actions, such as the declaration of a disaster area.**	Introduces stay/suspension from application of Foreclosure Registry Program
14	164.06.A.2	A property with a recorded notice of default shall be inspected by the beneficiary and/or trustee monthly until the trustor or other party remedies the default, or until the foreclosure process is complete. The beneficiary and/or trustee shall provide monthly reports to HCID that record the date of the monthly inspection and the condition of the property as observed during that inspection.	A property with a recorded notice of default shall be inspected by the beneficiary and/or trustee **quarterly** until the trustor or other party remedies the default, or until the foreclosure process is complete. The beneficiary and/or trustee shall provide **quarterly** reports to HCID that record the date of the **quarterly** inspection and the condition of the property as observed during that inspection.	From monthly to quarterly inspections
15	164.06.A.3	Once the foreclosure process is complete, if the beneficiary or trustee takes title to the property, the beneficiary or trustee shall continue to inspect the property monthly and provide monthly reports to HCID recording the date of the monthly inspection and the condition of the property as observed during that inspection.	Once the foreclosure process is complete, if the beneficiary or trustee takes title to the property, the beneficiary or trustee shall continue to inspect the property **quarterly** and provide **quarterly** reports to HCID recording the date of the **quarterly** inspection and the condition of the property as observed during that inspection.	From monthly to quarterly inspections

16	164.06.B.2	When a registered single-family residential property's status changes to foreclosed, the beneficiary or trustee who acquired the property shall pay a proactive inspection fee in the amount of $356. Failure to pay the inspection fee at the time the property's status is changed to reflect foreclosed on the registry, or at the time a foreclosed property is registered if it was not registered upon default, will result in penalties pursuant to Section 164.09 of this article.	When a registered single-family residential or **vacant multi-family** property's status changes to foreclosed, the **former beneficiary (REO Owner)** who acquired the property shall pay a proactive inspection fee in the amount of $356. Failure to pay the inspection fee at the time the property's status is changed to reflect foreclosed on the registry, or at the time a foreclosed property is registered if it was not registered upon default, will result in penalties pursuant to Section 164.09 of this article.	Provides clarification
17	164.09.A	Violations of this article shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this article shall be subject to prosecution and/or administrative enforcement under the Los Angeles Municipal Code.	Violations of this article shall be treated as a strict liability offense regardless of intent. Any **entity**, firm and/or corporation that violates any portion of this article shall be subject to prosecution and/or administrative enforcement under the Los Angeles Municipal Code.	
18	164.09.BIS	None	**APPEAL OF FEES AND PENALTIES**	New Section Title
19	164.09.BIS	None	**If the Department determines that sufficient cause exists for a beneficiary, or agent/trustee/servicer responsible for managing the foreclosure, to not timely pay the fees of provision of Section 164.04.E or penalties of provision of Section 164.09.C of this Chapter, the Department may waive the fees or penalties or fines required by such Article. The Department may promulgate such rules and regulations as may be necessary to carry out the provisions of this Article.**	Provides Waiver Exemption