BALTIMORE CITY COUNCIL
HOUSING & ECONOMIC DEVELOPMENT COMMITTEE

Mission Statement

The Housing & Economic Development Committee is dedicated to fostering equitable growth and opportunity across Baltimore while addressing historic injustices, such as redlining and other discriminatory policies. Our goals include eliminating vacant properties, ensuring affordable housing, promoting sustainable development, and driving economic growth, job creation, and community revitalization through equitable policies and targeted strategies. By utilizing transparent governance, collaboration, and innovative solutions, we strive to enhance the quality of life for all residents.

The Honorable James Torrence

CHAIR

PUBLIC HEARING

11/4/2025

5:15 PM
CLARENCE "DU" BURNS COUNCIL CHAMBERS

Bill: 25-0080

Title: In Rem Foreclosure – Vacant Structures and Nuisance Properties

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BALTIMORE MD, 21202

Meeting: Legislative Oversight Hearing

Committee: Housing & Economic Development

Bill # 25-0080

Title: In Rem Foreclosure – Vacant Structures and Nuisance Properties

Purpose: FOR the purpose of authorizing certain property located in Baltimore City identified as a vacant structure or nuisance property under the Baltimore City Building Code to be subject to a certain in rem foreclosure process; requiring certain procedures for an in rem foreclosure; requiring the City to take certain actions to compensate the interested parties in property that is acquired through an in rem foreclosure; specifying the circumstances under which an in rem foreclosure judgement may be reopened; making conforming changes; defining certain terms; and generally relating to in rem foreclosure of vacant property in Baltimore City.

REPORTING AGENCIES

Agency	Report
Law Department	Approve for form & sufficiency w. amendment
Dept of Finance	
Dept of Housing & Community Development	Unfavorable
Dept of Real Estate	Defers to DHCD
Circuit Court For Baltimore City	
Baltimore City Information Technology	Without recommendation

BACKGROUND

Legislative History

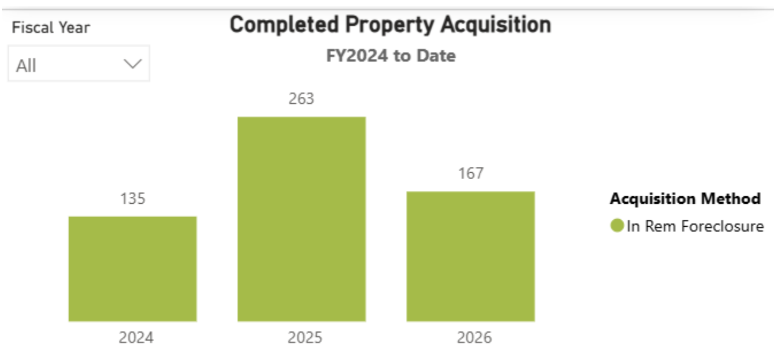
In August of 2020, Mayor Young signed into law Council Bill 20-0529 *Property Tax - In Rem Foreclosure and Sale - Vacant and Abandoned Property.* This bill authorizes the use of In Rem Foreclosure in Baltimore. This was the codification of state law passed in 2019 to allow counties in Maryland to use the Judicial In Rem process, which would allow local municipalities to speed up the time it takes to acquire property that is vacant or abandoned.[1]

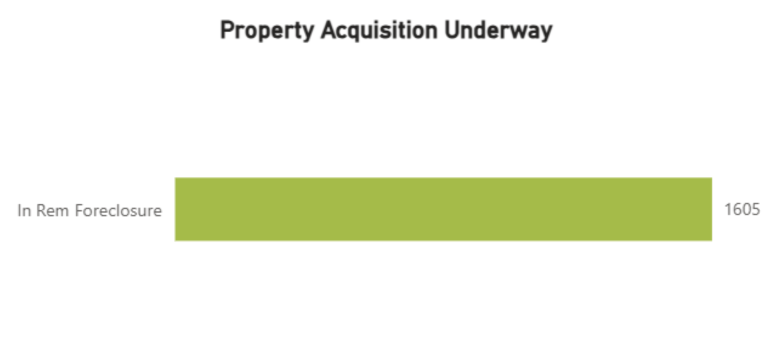
[1] Dept of Housing & Community Development Report July 7, 2020

In Rem Foreclosure
It is the process of acquisition whereby the City acquires properties where taxes and liens have exceeded the assessed value of the property. Once acquired by the City, the property can then be disposed of in a number of ways that support the City's efforts to reduce vacant housing and align with goals around housing stock and blight in communities.

At the time of the passage of the bill, the Department of Housing and Community Development (DHCD) estimated that the Tax Sale foreclosure process takes between 18-24 months (1.5-2 years)[2], whereas, according to the Fiscal Year 2026 budget, the goal of DHCD is to have an In Rem process completed on average in 250 days.[3]

According to the DHCD dashboard, 565 properties have been acquired via In Rem from FY24-present, with 1605 properties currently underway in the process. [4]





In an October 2025 presentation to the Housing and Economic Development Committee, DHCD noted that currently they have 19 attorneys in the legal section for In Rem filings and 10 paralegals (currently hiring 1 additional paralegal and attorney each)[5].

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[2] Dept of Housing & Community Development Report July 7, 2020
[3] FY 2026 Agency Detail Budget Book
[4] DHCD Baltimore Vacants Reinvestments Dashboard
[5] DHCD Presentation LO25-0028 10.21.25

In Rem Foreclosure – Vacant Structures and Nuisance Properties

Council bill 25-0080, if enacted, would allow the City to expand the use of In Rem Foreclosure to include vacant properties and nuisance properties. The definition of both of these categories of property would be the same as in the City building code.

116.4.1.2 Vacant structure.[6]
"Vacant structure" means a structure or distinguishable part of a structure that is:
1. unoccupied, and
2. either:
    a. unsafe or unfit for human habitation or other authorized use, or
    b. a nuisance property

116.4.1.3 Nuisance property.[7]
"Nuisance property" means:
1. an unoccupied structure for which 2 or more final, non-appealable Building Code, Fire Code, or Property Maintenance Code violations remained unabated for 10 days or more beyond the date by which the violation notice, citation, or order required the violation to be corrected; or
2. the exterior premises of an unoccupied structure for which, at any time within the preceding 12 months, on 6 or more separate occasions, final, no-longer appealable violation notices, citations, or orders were served to correct violations of Property Maintenance Code, § 305 {"Exterior Sanitary Maintenance – General"} or § 306 {"Exterior Sanitary Maintenance – Trash, Garbage, and Debris"}.

The expansion of the City's ability to conduct In Rem filings would mean that the City would be allowed to file for the foreclosure of these properties even if the value of the liens against the property is below the assessed value of the property, and the City would need to pay the difference to the last known owner of the property. To qualify, a property would need to meet the definition of a vacant or nuisance property, as well as:
1. Be 6 months in arrears on taxes
2. The right to appeal the property as vacant has been tolled (or suspended meaning that the statute of limitations on an interested party's appeal has been paused)

According to section 8.2-12 of the bill, if the property has value when a judgment to foreclose on the property is decided on, then the City must either:

1. Sell the property at a public auction (in accordance with state law 14-894 of the State Property Tax Article), that sale must comply with the Maryland Rules, namely:
    a. Property may not be sold until at least 45 days after the entry of judgment of foreclosure.

[6] Baltimore City Building Code 116.4.1.2
[7] Baltimore City Building Code 116.4.1.3

   b. The minimum bid for the sale of the property shall be the total amount of liens for unpaid taxes on the property.
   c. The property shall be sold to the person making the highest bid.
   d. The person making the highest bid shall pay the full bid amount to Baltimore City.
   e. If the minimum bid is not made or exceeded, Baltimore City may bid the minimum bid price and purchase the property.
2. Deposit the difference between the value of the property and the taxes owed on it into an escrow account. (The City must get 2 appraisals and use the higher appraisal in determining the value of the property)

The Court will be responsible for the distribution of funds to the relevant interested parties. Section 8.2-5(c) of the bill would allow the City to amend its complaint to the court with any additional taxes that become delinquent after the commencement of the foreclosure process.

Agency Reports

The Law Department in its report is noting several amendments to approve this bill for form and legal sufficiency. It is noting issues with the fair compensation of interested parties in properties that still have value. Law also notes a constitutional concern (on both the federal and state level) with respect to the purpose of taking these properties as the City must have a "valid public purpose" which Law notes would be determined on a case by case basis by the Court.

The Department of Housing & Community Development (DHCD) notes similar concerns as Law and also states its position that the additional process would create additional needs such as post bill filings which would create additional workflows and requirements that DHCD would not be able to meet without potentially slowing its current In Rem filings.

Additional Information

Fiscal Note:

A thorough fiscal note cannot be completed at this time with the data currently available. This bill does give the City the authority to potentially acquire a large number of properties, but without knowing how many properties and what the difference is between the assessed value of those properties and the tax liens, a precise figure cannot be determined.

In a letter to her constituents, Councilwoman Ramos referenced her office's study of properties in the 14^{th} district and noted that 28% of the privately owned vacant properties would qualify for the expanded In Rem process. But without the data on the cost of these properties, it is not known how much acquiring them would cost. [8]

[8] Councilwoman Ramos website post

Because these properties may be sold at public auction, some of them may not cost the City any more than an In Rem filing currently costs, but if a large number of properties require that the City pay the difference between tax liens and assessed value, this could increase the cost of implementing this strategy. There is nothing requiring DHCD to implement this process in any given situation, so DHCD may decide that, based on cost, some properties are more appropriate to use this authorization than others. The cost may also be offset by the gains that the City could realize by revitalizing vacant and nuisance properties, which could include increased density from new or reemployed housing units, to additional amenities from properties that are converted to be used for other services, such as retail or park space.

Information Source(s):

- Dept of Housing & Community Development Report July 7, 2020 (included in bill file)
- FY 2026 Agency Detail https://bbmr.baltimorecity.gov/sites/default/files/upload/FY2026%20Agency%20Detail%20Volume%20I.pdf
- DHCD Baltimore Vacants Reinvestments Dashboard https://app.powerbigov.us/view?r=eyJrIjoiY2YwMWNlZTItMjFkYy00OTZiLThjMGEtNWM4YzZhNDViMzJjIiwidCI6IjMxMmNiMTI2LWM2YWUtNGZjMi04MDBkLTMxOGU2NzljZTZjNyJ9
- DHCD Presentation LO25-0028 10.21.25
- Councilwoman Ramos Post https://www.odetteramos.com/post/introducing-in-rem-2-25-0080-in-rem-foreclosure-vacant-structures-and-nuisance-property
- Baltimore City Building Code https://codes.baltimorecity.gov/us/md/cities/baltimore/code/building-codes/II/116#116.4.1
- Maryland Property Tax Article 14.894 https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gtp&section=14-894&enactments=true
- 1st reader and agency reports – 25-0080 (included in packet and bill file)

Analysis by: Tony Leva Direct Inquiries to:
Analysis Date: 10/28/2025

Baltimore City Council

Housing & Economic Development Committee

Bill: 25-0080

Title: In Rem Foreclosure – Vacant Structures and Nuisance Properties

Agency Reports

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor

DEPARTMENT OF LAW
EBONY M. THOMPSON, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

November 1, 2025

The Honorable President and Members
of the Baltimore City Council
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 25-0080 – In Rem Foreclosure– Vacant Structures and Nuisance Properties

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0080 for form and legal sufficiency. The bill would authorize certain property located in Baltimore City identified as a vacant structure or nuisance property under the Baltimore City Building Code to be subject to a certain in rem foreclosure process.

The City's current in rem foreclosure procedure was authorized in 2019 by the enactment of Part V ("Judicial In Rem Tax Foreclosure") of Subtitle 8 of the Tax Property Article of the Maryland Code, now codified in Sections 14-873 through 14-876 of that Article. 2019 Md. Laws, ch. 276. This procedure applies to vacant properties or property cited as vacant and unsafe if the time to appeal that decision has tolled and if taxes are in arrears for at least 6 months. Md Code, Tax Prop., § 14-874. Most importantly, **the liens must exceed the value of the property**:

> (a) Real property may be subject to foreclosure and sale under this part only if:
>
> (1) the property consists of a vacant lot or improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice; and
>
> (2) **the total amount of liens for unpaid taxes on the property exceeds the lesser of the total value of the property as last determined by the Department or as determined by an appraisal report prepared not more than 6 months before the filing** of a complaint under this section by a real estate appraiser who is licensed under Title 16 of the Business Occupations and Professions Article.

Md Code, Tax Prop., § 14-874 (a) (1)-(2) (emphasis added).

The requirement of the liens exceeding the value of the property is the reason that the current process is not a government taking of private property, because the government's interest in the property is already substantial. In Rem Foreclosure is a method of collecting the unpaid amounts due to the government:

> Actions in rem, strictly considered, are proceedings against property alone treated as responsible for the claims asserted by the libelants or plaintiffs. The property itself is in such actions the defendant, and, except in cases arising during war for its hostile character, its forfeiture or sale is sought for the wrong, in the commission of which it has been the instrument, or for debts or obligations for which by operation of law it is liable. The court acquires jurisdiction over the property in such cases by its seizure, and of the subsequent proceedings by public citation to the world, of which the owner is at liberty to avail himself by appearing as a claimant in the case'.

Gathwright v. Mayor & Council of City of Baltimore, 181 Md. 362, 367–68 (1943).

In 2023, the General Assembly added Section 14-894 to the Tax Property Article of the Maryland Code to allow Baltimore City to provide by ordinance for an in rem foreclosure for properties with no value (like the current law) **as well as properties with value**. While the City can sell property to recover taxes owed, it is prohibited by the Fifth Amendment of the U.S Constitution and Section 40 of Article III and Section 1 of Article XI-B of the Maryland Constitution from taking property without just compensation. "[J]ust compensation means the full monetary equivalent of the property taken." *United States v. Reynolds*, 397 U.S. 14, 16 (1970). As explained below, the bill must be amended to provide the necessary compensation.

Even with these amendments, however, the City may not be able to satisfy the requirement of a public purpose for a taking of private property in a particular case. "Whether the use for which private property is taken is public or private is a judicial question, to be determined by the court; a legislative body cannot make a particular use either public or private by merely declaring it so." *Mayor and City Council v. Chertkof*, 293 Md. 32, 43 (1982). To operate "otherwise, the constitutional restraint would be utterly nugatory, and the Legislature could make any use public by simply declaring it so, and hence its will and discretion become supreme, however arbitrarily and tyrannically exercised." *Perellis v. Mayor & City Council of Baltimore*, 190 Md. 86, 93 (1948). The City cannot justify taking a property to give it to another that may make better use of it. *Id*. Rather, each time the City utilizes this process, it will have to show that it is taking the property in question for a public purpose. However, "the public character of a condemnation is not necessarily changed because a private entity will own the property." *Prince George's Cnty. v. Collington Crossroads, Inc.*, 275 Md. 171, 187 (1975).

A Court may not be persuaded that in every case the City's taking title to a vacant or nuisance property is sufficient public purpose when there is still private equity left in the property. The state law applies to "vacant or nuisance property" that is defined as "a vacant lot or improved property determined to be a vacant property or a nuisance property under the Baltimore City Building Code." Md Code, Tax Prop., § 14-894. A nuisance property according to the building code is:

a. an unoccupied structure for which 2 or more final, non-appealable Building Code, Fire Code, or Property Maintenance Code violations remained unabated for 10 days or more beyond the date by which the violation notice, citation, or order required the violation to be corrected; or

b. the exterior premises of an unoccupied structure for which, at any time within the preceding 12 months, on 6 or more separate occasions, final, no-longer appealable violation notices, citations, or orders were served to correct violations of Property Maintenance Code, § 305 {"Exterior Sanitary Maintenance – General"} or § 306 {"Exterior Sanitary Maintenance – Trash, Garbage, and Debris"}.

Building, Fire & Related Codes of Baltimore City, § 116.4.1.3.

Since public purpose must be decided by a court, the Law Department cannot disapprove the bill for form and legal sufficiency on these grounds as they are determined on a case by case basis. However, amendments are needed to be sure that the City provides fair market value for the property, allows the property owner to contest that value with a jury trial as a matter of right and does not take title until payment is given subject to the City's lien amount.

<u>Amendment Required to Pay Fair Market Value</u>

Determining the value of the property makes sure there is just compensation paid to the property owner to avoid an unconstitutional taking. In condemnation proceedings, fair market value must be paid. Md. Code, Real Prop., § 12-104(a). Fair market value is defined as:

> the price as of the valuation date for the highest and best use of the property which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay, excluding any increment in value proximately caused by the public project for which the property condemned is needed. In addition, fair market value includes any amount by which the price reflects a diminution in value occurring between the effective date of legislative authority for the acquisition of the property and the date of actual taking if the trier of facts finds that the diminution in value was proximately caused by the public project for which the property condemned is needed, or by announcements or acts of the plaintiff or its officials concerning the public project, and was beyond the reasonable control of the property owner.

Md. Code, Real Prop., § 12-105(b).

A defendant can challenge the value before the final judgment is issued. Md. Code, Real Prop., § 12-105(c). A defendant challenging value typically obtains their own appraisal. If the City and defendant do not agree on the value, the condemnation case is tried by a jury for the value to be determined unless the parties waive the jury trial right. Maryland Rule 12-207(a). The requirements in Maryland law stem from the fact that the "right to private property, and the protection of that right, is a bedrock principle of our constitutional republic. This is explicit in the federal constitution. The Fifth Amendment of the United States Constitution, made applicable to the States through the Fourteenth Amendment, states that, 'No person shall ... be deprived of life, liberty, or property, without due process of law.'" *Mayor & City Council of Baltimore City v. Valsamaki*, 397 Md. 222, 241 (2007) (citations omitted).

This bill lacks the necessary due process. The Law Department recommends that Section 8.2-9 on page 12 be amended to include the right to a jury trial to contest value as required under Section 40 of Article III and Section 1 of Article XI-B of the Maryland Constitution unless waived by the parties in writing. Section 8.2-12 on page 14 should be amended to ensure that the fair market value of the property is obtained by providing an opportunity to contest the adequacy of the auction and applying the definition of fair market value as provided in Section 12-105(b) of the Real Property Article of the Maryland Code, rather than two appraisals.

<u>Amendment Required to Prevent Taking Title Without Payment of Fair Market Value</u>

The bill permits the City to take control of a property with value before the property owners have been paid that value. This type of government action would be characterized as quick take condemnation, permitted in some jurisdictions in Maryland under Sections 40a of Article III of the Maryland Constitution. *See, e.g., Makowski v. Mayor & City Council of Baltimore*, 439 Md. 169, 186 (2014) (Baltimore's evidentiary showing "met the high threshold for situations to qualify as 'necessary' for Baltimore City to have 'immediate' possession and/or title to real property"). Since this bill contemplates a judicial in rem process, not an immediate quick take for possession, the bill needs to be amended to make clear that title is not taken until after the payment of just compensation. Thus, Section 8.2-13 may not be needed in those cases where the property has value above the lien amount since the City will have already paid fair market value for the property before obtaining title. Additionally, for those properties with value, the court may require in personam jurisdiction and additional notice.

<u>Additional Amendments Needed</u>

Section 8.2-14 "Reopening Judgment" on page 15 should be deleted as it attempts to direct the actions of the Baltimore City Circuit Court, thereby exceeding the City's legislative power. MD Constitution, Art. 11-A, Sect. 3. Moreover, it is duplicative of existing state law.

Next, lines 10 through 12 on page 3 of the bill must be deleted because the lawyer is distinct from the client. Md. Rule, 19-301.2 (Maryland Rule of Professional Conduct explaining lawyer and client relationships).

Finally, the change of Mayor and City Council to be a plural noun is incorrect, as it is the legal name of the City as provided in its Charter. City Charter, Art. I, § 1. Therefore, the Law Department recommends removing the suggested change in line 7 on page 2. Similarly, there are several other references throughout the bill that refer to the Mayor and City Council as a plural noun that should be revised. Additionally, the bill alters between referring to the City and referring to the Mayor and City Council. To avoid a Court interpreting these two terms differently, the Law Department recommends that one moniker be used consistently. *See, e.g., Toler v. Motor Vehicle Admin.*, 373 Md. 214, 223–24 (2003) ("It is a common rule of statutory construction that, when a legislature uses different words, especially in the same section or in a part of the statute that deals with the same subject, it usually intends different things").

Since the required amendments are substantial, the Law Department has not attempted to draft them but remains happy to consult on their creation. With these required amendments, the bill is not unconstitutional on its face because it will provide the due process and just compensation required under the Fifth Amendment of the United States Constitution and the applicable articles of the Maryland Constitution. In any particular case, however, a court may find the City's attempt to take title unconstitutional if it cannot provide an adequate public purpose. Since this would only invalidate the law as applied, the Law Department can approve the bill for form and legal sufficiency with the required amendments.

Very truly yours,

Hilary Ruley
Chief Solicitor

cc: Ebony M. Thompson, City Solicitor
Ty'lor Schnella, Mayor's Office of Government Relations
Ashlea Brown, Chief Solicitor
Jeffrey Hochstetler, Chief Solicitor
Michele Toth, Assistant Solicitor
Desiree Lucky, Assistant Solicitor

MEMORANDUM

To: The Honorable President and Members of the City Council
c/o Shamoyia Gardiner, Deputy Chief of Staff, Council President's Office

From: J Hardy, Community & Legislative Affairs Coordinator

Date: October 23rd, 2025

Re: 25-0080 - In Rem Foreclosure – Vacant Structures and Nuisance Properties

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Position: Defer to Department of Housing and Community Development

The Department of Real Estate (DORE) is herein reporting on City Council Bill 25-0080, introduced by Councilmember Ramos.

This bill authorizes certain vacant structures and nuisance properties to be subject to an expanded in rem foreclosure process under the Baltimore City Building Code and State Tax-Property Article. It establishes procedures to foreclose property interests, transfer properties to the City, ensure compensation when properties have value, and enable post-judgment property disposition aligned with blight removal and redevelopment goals.

This bill does not affect operations within the DORE. We defer to the Department of Housing & Community Development as the affected agency.

CC:

Celeste Amato, Chief of Staff, Comptroller Office
KC Kelleher, Deputy Chief of Staff, Comptroller's Office

CITY OF BALTIMORE
MAYOR BRANDON M. SCOTT

TO	The Honorable President and Members of the Baltimore City Council
FROM	Leyla Layman, Interim Director Baltimore City Office of Information and Technology Leyla Layman
CC	Ms. Nina Themelis, Director, Mayor's Office of Government Relations
DATE	August 19, 2025
SUBJECT	25-0080 In Rem Foreclosure – Vacant Structures and Nuisance Properties

POSITION: Without Recommendation

BILL SYNOPSIS

The Baltimore City Office of Information and Technology (BCIT) has completed its review of City Council has completed its review of Council Bill 25-0080 In Rem Foreclosure – Vacant Structures and Nuisance Properties. This bill authorizes certain properties located in Baltimore City identified as a vacant structure or nuisance property under the Baltimore City Building Code to be subject to a in rem foreclosure process; requires certain procedures for an in rem foreclosure; and requires the City to take certain actions to compensate the interested parties in property that acquired through an in rem foreclosure and specifies the circumstances under which an in rem foreclosure judgement may be reopened.

SUMMARY OF POSITION

BCIT anticipates utilizing existing systems to implement Council Bill 25-0080 In Rem Foreclosure – Vacant Structures and Nuisance Properties. We do not foresee the need for additional technologies.

If you have any questions, please contact Fabienne Dorceus, Program Manager, at (410) 913-0556.

CITY OF BALTIMORE
MAYOR BRANDON M. SCOTT

TO	The Honorable President and Members of the Baltimore City Council
FROM	Alice Kennedy, Commissioner, Housing and Community Development
CC	Mayor's Office of Government Relations
DATE	November 4, 2025
SUBJECT	25-0080 In Rem Foreclosure – Vacant Structures and Nuisance Properties

Position: Unfavorable

BILL SYNOPSIS

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 25-0080 In Rem Foreclosure – Vacant Structures and Nuisance Properties for the purpose of authorizing certain property located in Baltimore City identified as a vacant structure or nuisance property under the Baltimore City Building Code to be subject to a certain in rem foreclosure process; requiring certain procedures for an in rem foreclosure; requiring the City to take certain actions to compensate the interested parties in property that is acquired through an in rem foreclosure; specifying the circumstances under which an in rem foreclosure judgement may be reopened; making conforming changes; defining certain terms; and generally relating to in rem foreclosure of vacant property in Baltimore City.

If enacted, City Council Bill 25-0080 would expand the types of properties applicable for In Rem acquisition to include "nuisance" properties as described within Baltimore City Building Code, § 116.4.1.3, allow In Rem foreclosure on properties with value that exceeds the City's liens, and establish certain compensation procedures for parties whose property is acquired through the In Rem process. If approved, this Bill will take effect on the 30th day after the date it is enacted.

SUMMARY OF POSITION

Fundamentally, DHCD believes that the In Rem process, in its current form, works and works well. It allows the City to target abandoned or chronically neglected vacant lots and buildings for tax lien foreclosure. The foreclosure cases are averaging just under six months from filing to foreclosure judgment, and thus far DHCD has acquired 570 eligible properties while continuously increasing its capacity. DHCD is targeting 520 In Rem acquisitions in FY 2026. This Bill, as written, has the potential to chip away at both the legal and social legitimacy of the In Rem process, and may slow down DHCD's cases.

DHCD is concerned about this Bill's proposed changes to the existing City Code section regarding In Rem complaints (§ 8.1-7 (c)) to require "the name and address of the City agency administering the In Rem foreclosure action." As the current City Code only allows DHCD to file In Rem foreclosure actions, this provision adds confusion. As it is, this new requirement only serves to add additional and unnecessary requirements to the City Code.

DHCD is also concerned about the Bill's proposed expansion of In Rem foreclosure to include "nuisance" properties. Baltimore City Building Code, § 116.4.1.3, defines nuisance properties as:

1. an unoccupied structure for which 2 or more final, non-appealable Building Code, Fire Code, or Property Maintenance Code violations remained unabated for 10 days or more beyond the date by which the violation notice, citation, or order required the violation to be corrected; or

2. the exterior premises of an unoccupied structure for which, at any time within the preceding 12 months, on 6 or more separate occasions, final, no-longer appealable violation notices, citations, or orders were served to correct violations of Property Maintenance Code, § 305 {"Exterior Sanitary Maintenance – General"} or § 306 {"Exterior Sanitary Maintenance – Trash, Garbage, and Debris"}.

Rather than the abandoned or chronically neglected properties considered to be serious threats to public health and safety, adding this new category could result in properties that are merely eyesores becoming In Rem eligible. Foreclosing on such eyesore properties that have value beyond the City lines may well result in an unconstitutional taking. Unter both the US and the Maryland constitutions, there must be just compensation and a valid public purpose. Regarding the "valid public purpose" question, DHCD is not convinced that taking an eyesore property from the owners and other interest-holders would be considered a valid public purpose, when existing code enforcement remedies are a less severe means of addressing the problem.

With respect to the question of "just compensation", DHCD notes that the section of the Bill titled "compensation" only provides two possibilities:

(1) Sell the property and deposit the excess proceeds (after the City's liens are deducted) into the court for distribution to owners and lienholders; or

(2) Obtain two independent appraisals, and deposit into a court escrow fund the amount by which the higher appraised amount exceeds the City's liens.

Our concern with this section is that unlike the current law governing acquisition of properties by eminent domain, there is still no mechanism in the Bill for an owner or other interest holder to contest the City's valuation. That lack of recourse could result in the conclusion by an appellate court that the compensation scheme in the Bill falls short of the requirements of the US and Maryland constitutions.

FISCAL IMPACT

If DHCD were to file In Rem cases under this new proposed framework, the procedure and pleading packages would be notably different from In Rem cases as they are currently filed. For example, the “compensation” provisions in the Bill imply post-judgment filings by the City showing either what the referenced property sold for or copies of its appraisals, with both instances requiring a deposit amount. The Bill also suggests the need for an orderly process of fund disbursement by the court, with notice to all parties each time a request for disbursement is made or contested.

These changes would require the creation of new workflows and subsequent training as the process evolves for both Circuit Court and DHCD personnel. In terms of direct costs, this Bill would require a budget for what is essentially the purchase of the properties foreclosed on through this expansion of In Rem. Even initiating such foreclosures would likely require additional bureaucratic processes for Board of Estimates approvals and purchase fund administration. In addition to these added costs, this Bill would likely result in a distinct and significantly slower timeline than our current In Rem cases.

AMENDMENTS

DHCD does not seek any amendments to this Bill at this time.

Baltimore City Council

Housing & Economic Development Committee

Bill: 25-0080

Title: In Rem Foreclosure – Vacant Structures and Nuisance Properties

Additional Materials

According to the DHCD dashboard, there are 12,566 vacant and abandoned properties in Baltimore City, which are those marked with a Vacant Building Notice (red square on Codemap). There are also approximately 20,000 vacant lots (which are not on the dashboard yet). While there has been amazing progress - to the tune of rehabbing or demolishing a little under 1000 vacant properties a year in the last three years, we still have a very long way to go. Baltimore City government only owns 914 of these vacant properties and about ½ of the vacant lots.

Because the City only owns 7% of the vacant properties, we need more tools to make sure we can acquire them, work with communities on the outcomes, and make them available to our partners who will utilize them.

The reduction in vacant properties is largely due to the private market - either families selling their vacant homes to wholesalers, investors obtaining vacant properties via tax sale, or other reasons. This means communities may not be able to have input on what happens with the vacant homes. In addition we have already seen at least two major scams involving Baltimore City vacant properties because of private investors.

In 2015, as part of their commissioned study about solutions to Baltimore City's tax sale system, the Center for Community Progress recommended the use of In Rem Judicial Foreclosure, rather than tax sale, to take hold of vacant properties. In 2019, the General Assembly passed legislation that created and authorized jurisdictions like Baltimore City to conduct In Rem Judicial Foreclosure actions (In Rem means "against a thing"). In this iteration, which I will call "In Rem 1," the City can foreclose on a vacant and abandoned property or lot when the unpaid liens exceed the assessed value of a property, meaning the vacant property or lot has no value. The liens are then extinguished, producing clear title for the city to acquire. I'm proud to have worked with a broad coalition to get this passed in my previous role as the Executive Director for the Community Development Network of Maryland, prior to becoming a City Councilwoman.

Shortly after that, the Baltimore City Council passed DHCD's bill to begin conducting In Rem actions. "In Rem 1" is extremely important because we know that there are several thousand vacant properties and lots with hundreds of thousands of dollars in unpaid liens. No one was purchasing these in tax sale, and no one would approach owners to purchase these vacant properties with such high liens. They were stuck as vacant forever - owned by mostly deceased people, families who have moved away, forfeited LLCs, absent landlords, and the like. This was the case of the Stricker Street property where Lt. Butrim, Lt. Sadler, and FF/EMT Lacayo were killed. "In Rem 1" is the best tool to address these kinds of properties. As a matter of fact, using lien data from last year, 44% of the privately owned vacant properties and lots in my district are eligible for In Rem 1. In addition, once the city acquires the property through In Rem, we can control the outcome - it does not have to be auctioned to the highest bidder. For whole block outcomes, this could not be more critical.

While implementation of In Rem 1 was hampered because of the pandemic, filing of In Rem 1 cases began in ernest in early 2022, and the first cases landed in the Circuit Court in November of 2022. I want to thank the Circuit Court for their very important role here, because our In Rem cases are in a separate docket with one dedicated magistrate. The Circuit Court is one of the greatest partners in this initiative.

Today, the bill before you, I will call "In Rem 2." It expands In Rem to allow for the City to foreclose when the unpaid liens are below the value of a vacant property or lot, and liens are in arrears for more than 6 months. The City would have to pay the difference between the appraised value and the liens to the last known owner to avoid a taking and violation of the recent Tyler v Hennepin decision. The state authorization for this phase of the work came in 2023 thanks to Senator McCray and Delegate Smith who sponsored the Scott Administration bill enabling Baltimore City to conduct In Rem 2 actions.

Currently, 28% of the privately owned vacant properties and lots in my district qualify for In Rem 2 actions. These same properties would likely go to receivership, but in receivership we have to auction the properties off to the highest bidder, which actually does not allow for community development orgs to bid because the bids these days are so high, and the winner may not have the interest of the community in mind. In Rem 2 is so much better, it will be faster, and we will be able to truly accomplish whole block outcomes using both In Rem 1 and In Rem 2.

Based on the analysis conducted by my office, we believe with the full complement of the In Rem tools, the City could acquire 65% or more of the privately owned vacant and abandoned properties and lots in our city ensuring they get to the hands of partners who will get the job done.

In my letters to the Baltimore Vacants Reinvestment Council each month, I write extensively about In Rem 1 and the impact it has. I very much look forward to writing about In Rem 2.

I want to acknowledge the challenges we still have on several of our processes to dispose of properties from the City to our partners, and we are absolutely working on that. The bottom line is that we need more tools, not less, to tackle this crisis, and I am extremely grateful to have the opportunity to work on this. Thanks to my colleagues who have signed on. I look forward to the hearing where I'll have charts that explain what I just talked about a little better.