



CITY OF BALTIMORE  
MAYOR BRANDON M. SCOTT

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

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**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. Under 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.