



MEMORANDUM

STEPHANIE
RAWLINGS-BLAKE,
Director

PAUL T. GRAZIANO,
*Executive Director of BFR
Compliance, HCD*

To: The Honorable President and Members of the Baltimore City Council
c/o Karen Randle, *Executive Secretary*

From: Paul T. Graziano, *Commissioner*

Date: December 11, 2013

Re: **City Council Bill 13-0293 – Unsafe Vacant Structure**



The Department of Housing and Community Development (HCD) has reviewed City Council Bill 13-0293, which was introduced for the purpose of

This bill would change various parts of Section 116 of the Building, Fire and Related (BFR) Codes of Baltimore City, whose responsibilities translated in to operations are currently handled by two City agencies—HCD and the Department of Public Works (DPW), as discussed below

Sections 116.4.1 and 116.4.2 are definitions and determinations subsections of the BFR Code that related to what qualifies as an “unsafe vacant structure” in Baltimore City and what parameters can be used to determine “vacancy” and noncompliance with related notices and orders surrounding property maintenance. These definitions and determinations are integral to the operations of the HCD Code Enforcement Division and impact much more than just the required safeguarding section immediately below in Section 116.4.3. Sections 116.4.1 and 116.4.2 are largely the purview of the Building Official and HCD, operationally speaking.

HCD respectfully offers the attached amendments to Sections 116.4.1 and 116.4.2 because HCD believes it will improve the agency’s ability to better enforce the intent of this section of the law in certain situations, including but not limited to, for example: where a property is in a foreclosure and no one is taking responsibility to maintain; and where a property’s previous owner is deceased and the property is in what can best be described as estate limbo.

Section 116.4.3 is the “required safeguarding” section of the law. The change proposed in this legislation to Section 116.4.3.2 would remove the requirement to secure an entry point to an improved structure only up to a height of 24 feet above ground level. In terms of how this impacts the operations of the agencies of the City of Baltimore, the actual work and costs borne by the responsibility of actually securing these entry points on property is that of DPW, based on work orders generated by HCD. For example, in the past 12 months, HCD created 8,159 work orders for boarding of properties, whose crews are tasked with the physical work of cleaning and boarding these properties.

The Department of Housing and Community Development respectfully offers the attached amendments to Sections 116.4.1 and 116.4.2 of City Council Bill 13-0293, which HCD believes to be the bill’s legislative intent and supports the adoption of those amendments to the bill; HCD defers its position on Section 116.4.3 of City Council Bill 13-0293 to the Department of Public Works, as they are the agency most directly impacted by this section, for the reasons described above.

*AI Defers to
DPW*

PTG:nb

cc: Ms. Angela Gibson, *City Council Liaison, Mayor's Office of Government Relations*
Ms. Kaliope Parthemos, *Deputy Chief, Economic Development*

**AMENDMENTS TO COUNCIL BILL 13-293
(1st Reader Copy)**

Proposed by: Dep't of Housing and Community Development
{To be offered to the Housing and Community Development Committee}

Amendment No. 1

On page 1, in line 2, strike “**Unsafe**”; and, on the same page, strike beginning with “modifying” in line 3 through “in” in line 4 and substitute “expanding the definition of “vacant structure” to include certain “nuisance properties”; modifying the criteria for certain determinations; and, in line 6, after “vacant structures”, insert “and nuisance properties”.

Amendment No. 2

On page 2, strike lines 2 through 13, in their entirety, and substitute:

“**116.4 [Unsafe vacant] VACANT structures.** Every vacant structure, as defined in this § 116.4, is declared to be a fire hazard and a nuisance per se, and must be safeguarded and otherwise maintained as required in this § 116.4.”

116.4.1 [Definition] DEFINITIONS.

116.4.1.1 GENERAL. IN THIS § 116.4, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

116.4.1.2 VACANT STRUCTURE. “Vacant structure” means an unoccupied structure that [is] HAS BEEN DETERMINED BY THE BUILDING OFFICIAL TO BE:

1. unsafe or unfit for human habitation or other authorized use, OR
2. A NUISANCE PROPERTY.

116.4.1.3 NUISANCE PROPERTY. “NUISANCE PROPERTY” MEANS:

1. AN UNOCCUPIED STRUCTURE FOR WHICH 2 OR MORE BUILDING CODE, FIRE CODE, OR PROPERTY MAINTENANCE CODE VIOLATION NOTICES,

CITATIONS, OR ORDERS CURRENTLY REMAIN UNABATED FOR 30 DAYS OR MORE, OR

2. THE EXTERIOR PREMISES OF AN UNOCCUPIED STRUCTURE FOR WHICH:
 - A. AT ANY TIME WITHIN THE PRECEDING 12 MONTHS THE OWNER, FORMER OWNER, OPERATOR, PERSON IN CONTROL, AGENT, OR OTHER PERSON RESPONSIBLE HAS BEEN SERVED WITH A VIOLATION NOTICE, A CITATION, OR AN ORDER TO CORRECT A VIOLATION OF PROPERTY MAINTENANCE CODE, § 305 {"EXTERIOR SANITARY MAINTENANCE – GENERAL"} OR § 306 {"EXTERIOR SANITARY MAINTENANCE – TRASH, GARBAGE, AND DEBRIS"}; AND
 - B. THAT NOTICE, CITATION, OR ORDER REMAINED UNABATED FOR 100 DAYS OR MORE.

116.4.1.3.1 OFFICIAL'S CORRECTIVE ACTIONS DO NOT CONSTITUTE ABATEMENT. ACTIONS TAKEN BY THE BUILDING OFFICIAL TO CLEAN, SECURE, OR REPAIR A PROPERTY DO NOT PRECLUDE THE BUILDING OFFICIAL'S DETERMINATION THAT THE PROPERTY IS A NUISANCE PROPERTY.

116.4.2 [Determinations] DETERMINATION OF VACANCY, NONCOMPLIANCE. A determination of vacancy and a determination of noncompliance with a notice or order issued under this section may be based on observation that a structure:

1. [is open to casual entry] CONTAINS, AT ANY LEVEL, ANY OPEN WINDOW, ~~OPEN~~ OR DOOR, ANY OPENING CAUSED BY DAMAGE OR DECAY, OR ANY OTHER POINT OF ~~UNPROTECTED~~ ENTRY THAT IS UNPROTECTED FROM INTRUDERS.
2. has boarded windows or doors, or
3. lacks intact DOORS, WINDOWS, window sashes, walls, or roof surfaces to [repel weather entry] PROTECT AGAINST THE ELEMENTS.