



MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council
c/o Natawna Austin, Executive Secretary

From: Alice Kennedy, Housing Commissioner

Date: June 14, 2022

Re: City Council Resolution 22-0100R - Informational Hearing - Judicial In Rem Foreclosure

The Department of Housing and Community Development (DHCD) has reviewed City Council Resolution 22-0100R for the purpose of inviting the Commissioner of the Department of Housing and Community Development, the Deputy City Solicitor, and other relevant parties to come before the City Council to describe the in rem foreclosure process, inform the Council on the capacity of the Department of Housing and Community Development to increase in rem foreclosure cases, inform the Council on the role of the Circuit Court in the in rem foreclosure process, and recommend measures the City Council can take to support these efforts.

In-rem foreclosure Background and Process

The City of Baltimore regularly acquires titles to vacant lots or buildings by foreclosing on the tax lien certificates that the City holds. Tax sale foreclosure action often takes between 18 - 24 months to complete from the time a foreclosure case is filed. Properties are on a 3-year tax cycle, and tax lien certificates expire after 2 years, so if a foreclosure case isn't filed before expiration, the City must wait an additional year for a new certificate to result from the next tax sale before it can begin foreclosure proceedings. This results in unnecessarily long turnaround times and leads to delays in neighborhood improvement efforts and revenue generation for the City that results from the redevelopment and rehabilitation activity DHCD is trying to encourage.

In 2019, the Governor signed into law legislation that allows counties and local jurisdictions to create an alternative, judicial in-rem process for foreclosure on delinquent taxes if the outstanding taxes and other local liens exceeds the appraised/assessed value of the property.

In 2020 the City Council enacted *20-0529 Property Tax - In Rem Foreclosure and Sale - Vacant and Abandoned Property* allowing for *In Rem* foreclosure of vacant, high tax-lien properties. The objective of the legislation was to minimize wait times related to the tax sale cycle and tax certificate expiration and give the City authority to sell property for redevelopment and blight-elimination objectives after foreclosure is completed. It allows the city to pursue tax lien foreclosure and forego the tax sale and tax certificate system for vacant buildings and lots at DHCD's request. This process still requires the same due process and notification methods to owners as the Tax Sale Certificate process, but the City can initiate the process at any time for

qualifying properties. The In Rem process for vacant buildings functions alongside the current tax sale system.

Department Capacity

Since enactment, DHCD has filed a handful of initial pilot cases and has identified hundreds of additional properties to foreclose on using this new In Rem tool. The Department is in the process of pivoting to use of In Rem foreclosures as its primary means of acquiring title to vacant lots and buildings, supplanting regular tax sale foreclosure. DHCD has worked closely with the Law Department and members of the City Council to meet with the Circuit Court’s Administrative Judge and the judge presiding over the Civil Docket, and has secured a commitment for a differentiated docket identification and administrative process and timeline for In Rem cases. Using the initial pilot cases, DHCD has received instructions from the court regarding what to include in our initial In Rem filing packets, what facts to point out in our complaints, and what supporting documentation to include. DHCD is currently working with software developers to adapt its web-based case administration system to the timelines and processes established by the court, as well as the pleadings and notices that will be filed and mailed. DHCD expects to begin filing the identified In Rem cases in July of 2022.

Role of the Circuit Court in the In Rem foreclosure process

Presently, for each In Rem case the City Code and rules of procedure require that DHCD obtain from the court writs for each defendant/interest holder, and then obtain personal service where possible, or rely on an order of publication and the posting of notice on the property if good faith efforts to obtain service prove unsuccessful. To ensure the efficient administration of In Rem foreclosure cases, the Circuit Court has created a separate docket identification and administrative track, thereby ensuring that In Rem cases are not administered along with the thousands of tax sale foreclosure cases that are filed every year. This new track requires that a scheduling order be issued for each case, anticipating an initial hearing before a magistrate within 120 days of said order, and a final hearing, if needed, 30 days later. Additionally, the court has agreed that its clerks will make efforts to issue writs on the day cases are filed, if at all possible. Collectively, these changes should make the average time between filing and a foreclosure judgment significantly shorter than a standard tax sale foreclosure case.

Measures the City Council can take to support these efforts

DHCD will have additional capacity to increase *In Rem* foreclosure filings with additional attorneys and paralegals. These positions were supported by the City Council and funded in the FY2023 budget, under Service 749 –Land Transactions –Activity 1, there is \$800,000 budgeted for “Pending Personnel Actions. This funding supports the creation of paralegal and attorney positions necessary to meet the demand for increased filing of In Rem Tax Lien Foreclosure Cases. We believe these staffing improvements will increase our efficiency and effectiveness at obtaining title to vacant lots and buildings in the City.

Conclusion



DHCD is committed to employing this new In Rem tool for conducting property acquisition for vacant properties where liens exceed assessed value, and work to streamline the property acquisition processes to address blight and abandonment in the City.

We respectfully request a **favorable** report on Council Resolution 22-0100R.

AK/sm

*cc: Ms. Nina Themelis, Mayor's Office of Government Relations
Ms. Natawna Austin, Executive Secretary of the City Council*