

A MASTER'S POLICY REPORT

**An Analysis of an Ordinance to Assure the  
Maintenance, Rehabilitation, Registration,  
and Monitoring of Vacant, Foreclosed  
Residential Properties**

---

By Drennen Shelton  
For the City of Hayward, California  
Mills College  
Public Policy Program  
May 1, 2009

# Executive Summary

---

The City of Hayward has seen a sharp increase in the number of abandoned residential properties, due to the foreclosure crisis and resulting economic downturn. These properties are often neglected and left to deteriorate, consequently impacting the quality of life for the surrounding neighborhood and negatively impacting property values. The City is currently struggling with its existing tools to adequately address the problems presented by vacant, foreclosed properties. This report presents an analysis of a proposed ordinance related to vacant, foreclosed properties for the City of Hayward and suggests steps for its successful implementation.

## **Foreclosures Cause Abandoned and Neglected Properties**

The increase of high-risk mortgage lending between 2003 and 2005 has triggered a nationwide foreclosure crisis. As of January 2009, 1.5 million homes nationwide had already been lost through risky mortgages, and another two million are delinquent. California has the third highest foreclosure rate with an estimated 1.5 million homes projected to be lost due to foreclosure over the next four years. February 2009 marked a nearly 30 percent increase in foreclosure activity statewide from the year before. The City of Hayward is also dramatically impacted by this crisis, with approximately 1 in 46 properties in the foreclosure process.

It is increasingly common for homeowners to walk away from properties when entering foreclosure. This trend is mirrored in Hayward. With the ongoing foreclosure crisis and economic downturn, the City of Hayward has seen a sharp increase in the numbers of abandoned residential properties that are in the foreclosure process. Currently, there may be as many as 775 vacant, foreclosed residential properties in the

City of Hayward. Properties are remaining vacant, in part, due to a lengthier than normal foreclosure process. With so many properties going into foreclosure, banks and mortgage lenders are struggling to keep up. Considering that a property often begins to deteriorate as soon as a borrower defaults on his or her mortgage, a foreclosed property in Hayward can be neglected and/or vacant for upwards of 27 months.

Abandoned, foreclosed properties result in health and safety risks, increased crime and blight, depressed property values, higher insurance premiums and decreased local revenues. Neglected properties can become sites of public nuisance that lead to environmental problems for the neighborhood, and serve as a target for fire, vandalism, squatters, and criminal activity. Properties can suffer as much as \$7,600 in reduced property values when situated within 150 feet of an abandoned property. In California, approximately 7.5 million homes will lose a combined \$60.6 billion in market value because of their proximity to an abandoned, foreclosed property.

### **City of Hayward Community Preservation**

The City of Hayward's Community Preservation officers have the front line responsibility to enforce property maintenance codes and to administer Hayward's private property nuisance abatement program. This program gives the City of Hayward the authority to clean, maintain, repair and secure private property. Of the 54 private property abatements performed so far this year, approximately 55 percent were abandoned due to foreclosure, compared to approximately 40 percent last year. With more properties going into foreclosure, the number of abandoned houses requiring City abatement will very likely increase.

Additionally, Hayward Community Preservation staff, like that in other cities, is having a hard time relying on solely on existing code enforcement tools. In cases of abandoned, foreclosed properties however, the property is not occupied and does not have an owner. Without an owner, it is difficult to identify and locate the property beneficiary, the lender or bank that is responsible for the property. Even when the

correct beneficiary can be identified, it is most likely located outside the community, and it may be difficult to locate the name and phone number of a responsible person within the lending institution who can make decisions for the property. A new tool is necessary.

### **A New Tool: Vacant, Foreclosed Property Ordinance**

In response to the foreclosure crisis, the California legislature enacted SB 1137, which requires legal owners of vacant property acquired through the foreclosure process to maintain the property adequately, and authorizes local governments to impose fines of up to \$1,000 per day for failing to do so. Also in response to the foreclosure crisis, over 52 local governments in California, as well as 124 other jurisdictions nationwide have passed vacant, foreclosed property (VFP) ordinances. VFP ordinances allow local governments to collect beneficiary information for abandoned properties and reduce research time spent trying to identify the current owner. At least nine Bay Area cities have recently passed or proposed VFP ordinances or updated older ordinances in order to manage the problem of abandoned, foreclosed and neglected properties. In California, there have not been any legal objections to VFP ordinances, but there has been significant opposition from industry stakeholders. On the other hand, many groups support VFP ordinances, including nation and statewide organizations, many local housing and neighborhood organizations, and local government code enforcement staff.

### **Hayward's Proposed VFP Ordinance**

Under the guidance of the Hayward City Council, staff has proposed a VFP to prevent abandoned, foreclosed properties from becoming a further burden to the City, its neighborhoods and residents. The proposed VFP ordinance will:

- Establish and define owner responsibilities for abandoned, foreclosed residential properties

- Establish that the failure to maintain abandoned, foreclosed properties will constitute a public nuisance
- Require beneficiary owners of abandoned, foreclosed properties to register with the City
- Require beneficiary owners to obtain local property management
- Impose registration fees of \$215 per year, \$437 monitoring fees per quarter and civil penalties not to exceed \$1,000 per day for violations

While the proposed ordinance will not directly reduce the number of abandoned, foreclosed properties, it will provide City staff with a new regulatory tool that will aid current Community Preservation efforts. The proposed ordinance may allow for intervention before significant decline can occur and will lessen the amount of staff time and resources spent tracking down beneficiary information. More resources dedicated to these properties will yield increased chances that these properties will be sold to owner-occupants more quickly, thereby decreasing the time the properties remain vacant.

Enacting the proposed ordinance will move Hayward closer to meeting its City Council set priorities for the year of crime reduction, increased public safety and increased community cleanliness.

### **Consequences of Hayward's Proposed VFP Ordinance**

With the adoption and implementation of the proposed ordinance, there will be significant consequences for beneficiaries, intermediaries hired by beneficiaries, and the City of Hayward Community Preservation staff. Most beneficiaries will need to create infrastructure to comply with the proposed ordinance. These activities may ultimately have an impact on the beneficiaries' profit margins. There will be a significant increase in the amount oversight responsibility, out-of-pocket expenses and need for heightened levels of insurance for the agents beneficiaries often hire to manage the properties. These new requirements may deter agents from taking these properties if beneficiaries

do not provide adequately for the costs of complying with the proposed ordinance. The registration component of the ordinance in particular will create a new work burden for the City's already thinly stretched Community Preservation Department, and may also require a significant shift of priorities from other community abatement efforts to properties eligible under the ordinance.

### **Recommendations for Hayward's VFP Ordinance Implementation**

In order to increase the likelihood of success and allow for an eventual evaluation of the ordinance, the following recommendations have been made:

- Community Preservation case data must be collected and tabulated frequently in a database.
- Two new Community Preservation staff members should be hired to allow for the more proactive approach called for in the ordinance. Funding for these positions has been approved, but not allocated.
- Fees and Penalties must be aggressively imposed and collected where violation of the ordinance exists.
- Community Preservation staff should share vacant property information monthly via email with Hayward Police and Fire personnel to increase monitoring for eligible properties.
- City staff should look for ways to integrate vacant property monitoring with the Keep Hayward Clean and Green Task Force and other Neighborhood Partnerships programs such as Hayward Blight Busters Program.
- Foreclosure rights and education information should be distributed through a low cost method such as in water bills.

### **Hayward's VFP Ordinance Implementation Next Steps**

If the ordinance is passed by the Hayward City Council, the Community Preservation Department will oversee the implementation of this ordinance. Publicizing the passage of the ordinance and allowing for easy registration are key in obtaining beneficiary compliance. Staff should begin by:

- Creating a webpage on the City website that includes key ordinance compliance points, PDF copies of the ordinance and registration form and a mechanism for submitting multiple registrations online or by email.
- Announcing the ordinance and enactment date by mass mailing to all current beneficiaries that own property in Hayward.
- Educating City staff who come into contact with the public about the ordinance.
- Contacting large, nationwide property preservation providers that provide property management for nationwide lenders.

### **Hayward Needs a VFP Ordinance**

Without intervention, abandoned, foreclosed properties will continue to have a significant negative impact on the City of Hayward. The proposed vacant, foreclosed property ordinance will help to lessen these impacts by requiring the legal owners to monitor and adequately maintain their property so that they are not detriments to the surrounding community. The City of Hayward will benefit greatly from a vacant, foreclosed property ordinance.