

LEGISLATIVE DIGEST

[Police Code - Additional Penalties for Foreclosed Properties]

Ordinance amending the San Francisco Police Code Article 1 and adding Sections 96 to 96.6 to permit the City and County of San Francisco to: 1) declare that public nuisances occurring at foreclosed properties be considered aggravating factors in imposing civil penalties and injunctive relief; 2) hold individuals and entities who own significant numbers of foreclosed properties to increased civil penalties for failing to maintain the properties; and 3) make environmental findings.

Existing Law

Under the existing law, an owner of real property may be subject to injunctive relief and civil penalties under various provisions of municipal and state law for the maintaining or creating a public nuisance. There is currently no specific provision in the municipal code that holds individuals and entities who own significant numbers of foreclosed properties to increased civil penalties for maintaining a public nuisance.

Amendments to Current Law

This legislation amends the Police Code to declare that public nuisances occurring at foreclosed properties shall be considered an aggravating factor for purposes of imposing civil penalties and injunctive relief. For owners of ten or more foreclosed properties, this Ordinance permits courts to award an increased penalty of up to three times (treble) the amount of any civil penalty authorized by state or local law.

Background Information

San Francisco is still seeing a significant number of foreclosures, with more than 927 foreclosures occurring in the 2010-2011 fiscal year. Often by the time a property is foreclosed upon, the property has been neglected and sorely in need of maintenance. A property that is left in such a condition often can fall victim to squatters, illegal dumping, overgrowing vegetation and vermin, quickly deteriorating into a condition that qualifies as a public nuisance.

California Civil Code Section 3479 defines nuisance as, "[a]nything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or

offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance." California Civil Code Section 3480 defines a public nuisance as "one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal."

There are provisions of municipal and state law that authorize civil actions against owners of properties that are maintained as public nuisances. Those provisions not only permit the imposition of an injunction to abate the actual nuisance conditions, but many permit the assessment of a civil penalty for violations of law. However, there is no provision that specifically addresses the blight caused by neglected, foreclosed properties or attempts to deter nuisances at those types of properties from occurring.

This Ordinance would permit courts to consider nuisances at foreclosed properties as an aggravating factor in assessing the above remedies. In addition, it would provide courts the mechanism to penalize owners of more than ten foreclosed for maintaining public nuisances.