

ORDINANCE NO. 053, SERIES 2017

AN ORDINANCE MODIFYING THE VACANT PROPERTY REVIEW COMMISSION AND THE LANDBANK AUTHORITY GIVEN RECENT CHANGES IN STATE LAW. (AMENDMENT BY SUBSTITUTION)

SPONSORED BY: COUNCILMEMBERS SHANKLIN, WELCH, BRYANT HAMILTON, JAMES, WOOLRIDGE, SEXTON SMITH AND JOHNSON

WHEREAS, in 2016, the General Assembly of the Commonwealth of Kentucky amended KRS Chapter 99 to allow Louisville Metro Council (the "Council") the flexibility to assign the duties that would otherwise be fulfilled by a vacant property review commission under KRS 99.700 to 99.730 to an alternative government entity; and

WHEREAS, the Council designates the Louisville and Jefferson County Landbank Authority, Inc. as the alternate government entity to exercise the powers and authorities set forth in KRS Chapter 99 to address blighted and deteriorated properties in Louisville Metro.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: Louisville Metro Code of Ordinances ("LMCO") sections §§ 32.515, 32.516, 32.519, 32.520 and 32.521 are hereby repealed and LMCO sections § 32.517 is hereby modified:

LMCO § 32.517 ESTABLISHMENT; POWERS.

(A) There is established a Vacant Property Review Commission ("Commission") which shall operate under the auspices of the ~~Department of Housing Develop Louisville, Office of Vacant and Public Property Administration.~~

(B) The Commission may adopt by-laws and such other rules and regulations as may be necessary to its operations, subject to approval by the ~~Department of Housing~~ Develop Louisville, Office of Vacant and Public Property Administration. The

Commission shall conduct regular or special meetings as it deems necessary and shall keep minutes and records of all proceedings, including the number of votes for and against each question and the record of the vote of each member. A simple majority of the total membership of the Commission shall constitute a quorum for the transaction of business.

(C) The Commission shall have the power to exercise the authorities set forth in LMCO § 38.09 related to abandoned urban property.

SECTION II: LMCO section § 32.775 is hereby modified as follows:

LMCO § 32.775 ESTABLISHMENT; POWERS.

~~(A) That the Metro Government is authorized to enter into an~~ The Louisville and Jefferson County Landbank Authority, Inc. ("Landbank Authority") was established as a nonprofit, nonstock corporation by an Interlocal Cooperation Agreement between the Louisville Metro Government, the Jefferson County Public School Board and the Commonwealth of Kentucky pursuant to the authority granted in KRS §§ 65.350 to 65.375. ~~, for the purpose of establishing the Louisville and Jefferson County Landbank Authority; and to incorporate such authority as a nonprofit, nonstock corporation to be known as the Louisville and Jefferson County Landbank Authority, Inc.~~

~~(B) That the Mayor, and other appropriate officers and employees of the Metro Government are authorized and directed to execute, acknowledge and deliver on behalf of the Metro Government any and all papers, instruments, certificates, affidavits, and other documents; and to do and cause to be done any and all acts and things necessary or proper for the establishment of the Louisville and Jefferson County Landbank Authority, Inc.~~

(B) Louisville Metro Government designates the Landbank Authority with the powers granted in KRS Chapter 99 to address and eradicate blighted and deteriorated properties in Louisville Metro.

(C) Per KRS § 65.360, Members of the Landbank Authority is governed by a three person board composed of one (1) member appointed by the Louisville Metro Government, one (1) member appointed by the Jefferson County Public School Board and one (1) member appointed by the Commonwealth of Kentucky. The Louisville Metro member shall be appointed by the Mayor with the approval of the Metro Council.

SECTION III: LMCO section § 32.776 is created to provide the following definitions:

LMCO § 32.776 DEFINITIONS

For the purpose of this subchapter, the definitions contained in KRS § 99.705 and KRS § 416.540 shall apply unless the context clearly indicates or requires a different meaning.

SECTION IV: LMCO section § 32.777 is hereby created regarding certification of blighted properties:

LMCO § 32.777 CERTIFICATION OF PROPERTY AS BLIGHTED.

(A) The Landbank Authority shall have the authority to determine whether a property is blighted or deteriorated when it has been referred to the Landbank Authority by the appropriate Metro Government agency as tax delinquent or in violation of local codes.

(B) Certification of property as blighted or deteriorated may be made only after the following determinations have been made:

(1) That the owner of the property or designated agent has been sent an order by the appropriate Metro Government agency to eliminate the conditions which are in violation of local codes or law;

(2) That the property is vacant;

(3) That the property is blighted and deteriorated;

(4) That the Landbank Authority has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent and any interested parties of record have failed to comply with the notice; and

(5) That the Planning Commission has determined that the reuse of the property is in keeping with the comprehensive plan.

(C) The findings required in subsection (B) above shall be in writing and included in the report to the Metro Council.

(D) Upon making a written determination of blight or deterioration, the Landbank Authority shall notify the owner of the property or a designated agent and any interested party of record that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the Metro Government under this subchapter and KRS Chapter 99. Notice shall be mailed to the owner or designated agent and any interested party of record by certified mail, at their last known address as recorded with the Property Valuation Administration office or the Jefferson County Clerk, return receipt requested. However, if the address of the owner or a designated agent or any interested party of record is unknown and cannot be ascertained by the Landbank Authority in the exercise of reasonable diligence,

copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his agent or any interested party of record shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within 90 days of the receipt of such notice. If the certified notice is returned as not deliverable, the notice shall be considered delivered as of the mailing date. An extension of the original 90-day time period may be granted by the Landbank Authority at the end of that period if the owner or designated agent or any interested party of record demonstrates substantial progress toward abatement and that a specific number of additional days is needed to correct the conditions cited in the notice. In no event may the time extension go beyond an additional 90-day period.

SECTION V: LMCO section § 32.778 is hereby created to confer authority in KRS Chapter 416:

LMCO § 32.778 EMINENT DOMAIN.

(A) Metro Government may institute eminent domain proceedings pursuant to KRS Chapter 416 against any property which has been certified as blighted or deteriorated by the Landbank Authority, if, in addition, the Metro Council finds:

(1) That such property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety, and welfare;

(2) That such property is likely to continue to deteriorate unless corrected;

(3) That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

(4) That the owner of such property has failed to correct the deterioration of the property.


(B) Metro Government may acquire by eminent domain pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to this subchapter, and shall have the power to hold, clear, manage, develop or dispose of property so acquired, pursuant to the provisions of this subchapter and KRS Chapter 99. The Metro Council does hereby delegate the power to hold, clear, manage, or dispose of property so acquired to the Landbank Authority.


SECTION VI: LMCO section § 32.779 is hereby created regarding conflict of interest with properties considered by the Landbank Authority:

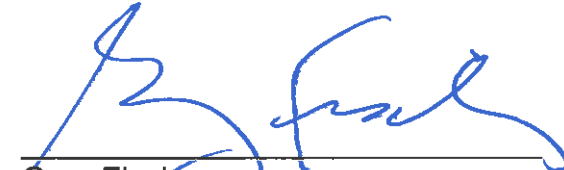
LMCO § 32.779 CONFLICT OF INTEREST.

No officer or employee of the Metro Government, or of the Landbank Authority, who in the course of employment duties is required to participate in the determination of property blight or deterioration or the issuance of notices on violations which may lead to a determination of blight or deterioration, shall acquire any interest in any property declared by the Landbank Authority or the Metro Council to be blighted or deteriorated. If any such officer or employee owns or has financial interest, direct or indirect, in any property certified to be blighted or deteriorated, he or she shall immediately disclose, in writing, such interest to the Landbank Authority and to the Metro Council, and that disclosure shall be entered in the minutes of the Landbank Authority and of the Metro Council. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any officer or employee for any property or interest therein acquired by the Metro Government from such officer or employee unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless payment is unanimously approved by the Metro Council.

SECTION VII: This Ordinance shall take effect upon its passage and approval.


H. Stephen Ott
Metro Council Clerk


David Yates
President of the Council


Greg Fischer
Mayor

3/24/17
Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

**LOUISVILLE METRO COUNCIL
READ AND PASSED**
March 23, 2017

BY: 