September 1, 2015

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

RESPONSE TO REQUEST OF AUGUST 11, 2015 TO REPORT
ON ABANDONED PROPERTY ORDINANCE (ALL S.D.s)
(Fiscal Impact: None)

On August 11, 2015, your Board requested that Staff provide a report to discuss the Abandoned Property Ordinance (G-8455) which was approved by your Board and became effective in January, 2014. This ordinance became Chapter 8.45 of the County Ordinance Code, and requires mortgage companies to register properties which they have foreclosed on, as well as those properties in which the owners have informed the mortgage companies they no longer have an interest. It is also required that the mortgage companies maintain these properties, and provide contact information in an acceptable database.

The purpose of the ordinance was to identify responsible parties prior to the lender beginning the foreclosure process. During this period, it was difficult to locate anyone who would take responsibility to correct any violations or deficiencies. The original owner was likely in default and had walked away from the property, and the lending institutions were overwhelmed with the volume of abandoned properties and were slow to respond, if at all. The Abandoned Property Ordinance requires mortgage companies to post their contact information on the property so the community, law enforcement, and other interested parties will know who to contact. Currently, the amount of properties in foreclosure has greatly decreased, and lenders appear to have their inventory under much better control.

The properties that are regulated by the ordinance are abandoned residential properties, which are defined as properties that are vacant/abandoned for a period of at least thirty (30) consecutive days and are not currently being offered for sale, rent, or lease by the owner/responsible party as evidenced by the absence of a sign posted on the subject property advertising the property for sale, rent, or lease with contact information and current phone number, and/or the absence of an active listing in an approved electronic database accessible to the public. "Abandoned" also refers to properties for which the current owner of record has provided notice to the beneficiary that they no longer have an interest in the property, and/or will no longer be making the outstanding payments on the mortgage.

The ordinance contains the following major provisions:

1) Mortgage companies are required to register abandoned properties in an accepted national registry, or they can register the property with this Department which includes an annual fee (currently $152), for maintaining the local database.
2) Mortgagees are required to post each abandoned and vacant property with contact information for the reporting of any problems.
3) Mortgage companies are required to inspect each abandoned and vacant property at least once a month.
4) Mortgagees are required to maintain the properties, keeping them free of graffiti; clear of all trash, junk and debris; and the landscaping shall be maintained and kept free of dead plants.
5) Mortgagees shall secure, and ensure that the structure is maintained secure.
6) Any pools and/or spas shall be properly maintained or kept dry; and any yard containing a pool or spa shall be maintained secure.

Failure to comply with the ordinance could result in the County seeking to impose administrative penalties, recovery of all costs, or requesting the District Attorney’s Office to file misdemeanor charges.

Procedurally, when the Department receives a complaint reporting an alleged violation of a County ordinance, Staff’s investigation includes verification of property ownership. If there is only a mortgage company listed, Staff will contact the mortgage company to resolve any violations and will continue processing the case with the mortgage company as the responsible party. At this time, there are 383 properties registered with the Department as an Abandoned Property. There have been no known violations by any lenders since implementation of this ordinance. In general, whether registered or not, lenders/mortgage companies have been responsive to any issues or concerns identified by this Department.

Occasionally, the Department will receive complaints that squatters are occupying an abandoned property. Staff will conduct a site inspection to determine if there are any violations of County ordinance, as well as verify ownership of record. If it is determined that the property is not abandoned, as defined in the ordinance, and there are no other violations observed, this Department will not take any action. Staff does not interview or question the occupants’ relationship to the owner of record, as the Department has no authority to remove squatters. If the property is abandoned, whether registered with the Department or not, Staff will notify the mortgage company/responsible party of all observed violations, including violation of the abandoned property ordinance if appropriate, and continue processing the case until all violations are abated.

Since the implementation of this ordinance, it appears that most lenders are adhering to the requirements by registering abandoned residential properties. However, Staff will monitor the data base and verify abandoned properties are properly registered as part of their investigation when violations are reported.

Therefore, IT IS RECOMMENDED that your Board receive and file this report.

Sincerely,

Craig M. Pope
Director