

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1190

Amending MCC §7.402 and Updating and Codifying Provisions Relating To Forfeiture Of Redemption Right For Tax Foreclosed Property and Repealing Ordinance 630

(Language ~~stricken~~ is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. Under the existing MCC 7.402 (A), the County self-imposed an obligation to give additional written notice to former owners of tax foreclosed property immediately after the end of the two year redemption period. This notice is not required under State law and it was delivered to affected parties very close in time to the published notice that is required under ORS 312.190 at the end of the tax foreclosure redemption period. More importantly this additional elective notice has not been an effective tool to reduce the inventory of properties taken in through tax foreclosure and the ongoing cost to undertake the notice and process cannot be justified, accordingly this additional notice is deleted by this proposed amendment to MCC 7.402 (A).
- b. On November 30, 1989, the Board enacted Ordinance 630 authorizing forfeiture of redemption for tax foreclosed property upon abandonment or waste, requiring the tax collector to deed property to the County after hearing, and permitting affected persons to appear or redeem to avoid forfeiture of their redemption right.
- c. The Board wishes to update provisions relating to forfeiture of redemption right for tax foreclosed property and add them to the Multnomah County Code.

Multnomah County Ordains as follows:

Section 1. MCC 7.402 is amended as follows:

§ 7.402 Repurchase Policy And Contract Application Time, Qualifications And Contract- Requirements.

(A) Repurchase Policy. Repurchase Period. Upon receipt of recorded property deeds, the Department shall send notices by certified mail to former owners of tax foreclosed properties. The notices shall advise the recipients:

_____ (1) ~~Within thirty (30) days from the date of the notice the owner may:~~

_____ (a) ~~Pay in cash the repurchase price established by the Department under § 7.402(C), or~~

_____ (b) ~~Complete an application to repurchase the property by repurchase contract.~~ The County in its sole discretion may decide to sell and convey tax foreclosed property to the former record owner or contract purchaser of record (collectively referred to as "owner" for purposes of this section). If the County does elect to sell to the owner, that party may repurchase the tax foreclosed property for cash or on contract only as provided in this section. A repurchase by the owner for cash may proceed at any time if the property is not subject to an alternative disposition and the County determines such a sale is in the best public interest. A repurchase on contract by the owner shall only be accepted and considered by the County if the Department receives an application in compliance with this Section no

later than November 15th of the year the foreclosure deed is recorded for the given property. The Director is authorized to establish rules and procedures for the implementation and enforcement of this Section, including but not limited to the creation of applications and other forms.

~~(2) If the owner fails to either repurchase in cash or to qualify to repurchase by property contract within the time provided, the Department may dispose of the property as provided in this subchapter.~~

(B) Repurchase on Contract, e -Contract Qualifications and Requirements. ~~Former owners may repurchase property on contract~~ A timely submitted application to repurchase on contract by the owner will only be recommended by the Department for approval by the Board if the property and the owner meet these additional ~~the following~~ qualifications and requirements:

- (1) The property must be:
 - (a) The primary residence of the ~~former~~ owner; or
 - (b) The primary location of the ~~former~~ owner's business; or
 - (c) Used as an integral part of a residential treatment or social services program sponsored by the owner, if the owner is a nonprofit organization exempt from federal taxes under IRC 501 (C)(3); and
- (2) Any other real property of the owner in Multnomah County has not been foreclosed for non-payment of taxes in the previous ten (10) years, unless such prior foreclosure is either (i) the owner's primary residence if the current foreclosure is the owner's primary business, or (ii) the owner's primary business if the current foreclosure is the owner's primary residence; and
- (3) The owner has not previously repurchased property by an agreement which has been canceled by the county within the preceding ten (10) years; and
- (4) The owner must demonstrate financial ability to meet minimum payment requirements of a contract; and
- (5) Improved property must be suitable for occupation, or the owner must demonstrate an ability to make the property suitable for occupation within the period specified by the county, and _____

(6) The property was not acquired by the County from the owner through a reduced redemption period and forfeiture pursuant to MCC 7.420 to 7.426.

(C) Repurchase ~~Contract~~ Price

(1) ~~T~~The repurchase price for a cash or contract sale shall be the sum of: all the uncollected taxes as of the date the property was conveyed to the ~~C~~ounty; an amount equal to taxes which would have accrued after conveyance to the county, including accrued interest and interest which would have accrued after conveyance to the county; penalties; municipal liens; delinquent sewer liens; special assessments; costs of maintenance or nuisance abatement, and administrative expenses which shall include, but not be limited to, title searches, expense of document preparation and recording fees.

(2) All ~~R~~epurchase contracts shall include provisions for prepayment of real property taxes with any debt service installment payments.

(D) *Appeal Process For Contract Denials*

(1) The Department may deny any timely or other application for repurchase by contract if the applicant fails to submit sufficient evidence to show compliance with contract qualifications in § 7.402(B).

(2) The Director shall give notice of denial in writing to the applicant by regular mail. The notice of denial shall include:

- (a) A statement of the reason(s) for the denial.
- (b) Explanation of how the decision of the Director may be appealed to the Board, and
- (c) Explanation of the actions necessary to request an administrative exception.

(3) Requests for an administrative exception must be submitted to the Director within fifteen (15) days after the notification of denial was mailed. The Director will make a determination within fifteen (15) days after the request. The Director may grant an administrative exception to the qualification requirements if in the public interest.

(4) Within fifteen (15) days after a notice of the Director's denial, the applicant may either repurchase the property for cash or appeal the denial to the Board. The appeal shall be filed with the Department and shall recite the facts forming the basis for the appeal and set out the reasons the applicant believes the Board should reverse the Director's decision. The Department shall promptly deliver a copy of the request for appeal together with a copy of the Director's reasons for denial prior to the appeal hearing.

(5) When an appeal is filed, at the next regular Board meeting at which the matter can be presented, the Board shall schedule a hearing to hear the appeal.

(6) The Board will determine the disposition of the appeal based on the following:

- (a) Whether the applicant meets the contract qualifications and requirements stated in § 7.402(B);
- (b) Whether the applicant filed a completed repurchase application within the time required by § 7.402(A)(1);
- (c) Whether the applicant filed an appeal in the manner required by § 7.402(D)(3)&(4);
- (d) Whether other extenuating circumstances exist.

(E) *Appeal Process for Contract Cancellation*

(1) If at any time a contract is in default and subject to cancellation, the Director may give notice of default in accordance with the repurchase contract.

(2) Any contract purchaser may request the Director to grant relief from cancellation by request in writing to the Director within fifteen (15) days after notification of default. The Director will

make a determination within fifteen (15) days thereafter whether to modify the contract, grant other appropriate relief or to specify a date the contract will be canceled.

(3) If the Director denies a request for relief from contract cancellation, the Department shall give the purchaser notice of the reasons therefore in writing by regular mail. The notice shall include information on how the contract may be appealed to the Board.

(4) Within fifteen (15) days after the Director's denial, the repurchaser may either pay off the balance of the contract in cash, or appeal the proposed contract cancellation to the Board. The appeal shall be in writing, recite the facts forming the basis for appeal and reflect the reasons the petitioner believes the Board should reverse the Director's decision.

(5) When an appeal is filed, at the next regular Board meeting at which the matter can be presented, the Board shall schedule a hearing to hear the appeal.

(6) The Department shall provide the Board a copy of the Director's notice of denial prior to the appeal hearing. At the appeal hearing, the Board may affirm the Director's decision to cancel the contract or fashion other appropriate relief, including reinstatement or modification of the contract.

Section 2. MCC Chapter 7, County Management, is amended to add the following:

§ 7.420* REDUCED REDEMPTION AND FORFEITURE OF TAX FORECLOSED PROPERTY

§ 7.421 Findings.

(A) Properties ordered foreclosed for delinquent taxes by the court do not legally pass into County ownership for two years thereafter during which period persons with recognized legal interests may pay all required taxes to redeem their property.

(B) During the two year redemption period many properties remain vacant or undeveloped resulting in significant deterioration and loss of value for the property as well as contributing to decline of neighborhoods, discouraging investment and attracting nuisances through accumulation of discarded material, occupancy by unauthorized persons and establishment of criminal enterprises.

(C) The 1989 legislature created authority for counties to enact ordinances to accelerate the expiration of the two year redemption period for tax foreclosed properties which suffer abandonment or waste and to require the tax collector to convey title to the County, permitting earlier County intervention to preserve the value of tax foreclosed property, enhancing recovery of delinquent taxes and protecting and preserving community interests.

(D) The interests of the County, through protection of the health and welfare of its residents and preserving the value of tax foreclosed properties, require that this ordinance be enacted as an emergency measure to meet and effectively deal with the problems attendant in the foreclosure of tax delinquent properties.

§ 7.422 Definitions.

For the purposes of this subchapter, unless the context requires otherwise, the following terms are defined as follows:

ABANDONMENT. The subject property is not occupied by the owner or others authorized by the owner, or any entity appearing in the records of the County to have a lien or other interest in the property, for a period of six consecutive months, and the property has suffered a substantial depreciation in value or will suffer a substantial depreciation in value if not occupied.

BOARD: Board of County commissioners of Multnomah County, Oregon.

DIRECTOR. Director of the Department of County Management, the Director's designee or the Multnomah County Tax Collector:

INTERESTED PARTY. Any person or entity that appears in the records of Multnomah County to have a lien or other interest in the subject property at the time the notice issues pursuant to MCC 7.424.

OWNER. Any person or entity that so appears in the records of Multnomah County for the subject property.

RECORDS OF MULTNOMAH COUNTY. Those records kept by Multnomah County in compliance with ORS 312.125 (7)

WASTE. The destruction, material alteration or deterioration of land or improvements thereon, caused by the owner or by anyone acting under permission or control of the owner. For purposes of this definition "acting under the control of the owner" means that the owner has failed to prevent others with or without the owner's permission from committing waste of the subject property.

§ 7.423 Waste or Abandonment.

If the Director determines that any tax foreclosed property sold to the County pursuant to ORS 312.100, may suffer waste or abandonment during the two year statutory redemption period, the Director may require and conduct a hearing as further provided for herein to determine whether such property should be deeded to the county earlier than as provided at ORS 312.200.

§ 7.424 Notice of Director's Hearing.

(A) Not less than 30 days prior to the hearing conducted by the Director, the Director shall notify or cause to be notified the owner, any interested party, and the occupants of the property, in writing and by both certified and regular first class mail, of the following:

(1) The date, time and place of hearing;

(2) The date of the judgment entered pursuant to ORS 312.100;

(3) The normal date of expiration of the period of redemption under ORS 312.120;

(4) A warning that a determination that the property suffers waste or abandonment will result in forfeiture of the remaining redemption period and issuance of a deed to the County following expiration of 30 days from the date the Board makes such final determination and that all rights of effected persons will be forfeit forever unless the property is redeemed within that 30 day period;

(5) Legal description of the property and its tax account number;

(6) The name of the owner as it appears on the latest tax roll.

(B) The notice required herein shall be addressed in the following manner, as appropriate:

(1) If the notice required under this section is to be given to an owner, the notice shall be addressed to the owner or owners, as reflected in the county records of deeds, at the true and correct address of the owner as appearing on the instrument of conveyance under ORS 93.260 or as furnished under ORS 311.555 or as otherwise ascertained by the tax collector of the county pursuant to ORS 311.560.

(2) If the interested party to whom the notice is required to be given is a lienholder, or person or entity other than the owner, having or appearing to have a lien or other interest in the property, the notice shall be addressed to the lienholder, person or entity at the address that the county knows or after reasonable inquiry has reason to believe to be the address at which the lienholder, person or entity will most likely receive actual notice.

(3) If the interested party is lienholder which is a corporation or a limited partnership, the county shall be considered to have made reasonable inquiry if the notice is mailed to the registered agent or last registered office of the corporation or limited partnership, if any, as shown by the records on file in the office of the Corporation Commissioner, or if the corporation or limited partnership is not authorized to transact business in this state, to the principal office or place of business of the corporation or limited partnership.

§ 7.425 Hearing Procedures.

(A) The hearing shall be conducted in a manner calculated to permit full opportunity for the parties to present and challenge evidence and for the receipt of evidence without strict observance of formal evidentiary rules, to the end that the Director may have sufficient basis on which to recommend to the Board that forfeiture is appropriate.

(B) Parties to the hearing may appear through a representative, so long as written authorization of any non-attorney to represent the owner or lienholder is included in the record. Electronic recording of the proceeding shall be made and preserved for not less than one year after the date of the hearing.

§ 7.426 Final Determination, Enforcement and Review

(A) After the hearing, the Director shall prepare written findings regarding waste or abandonment, submit such findings and a recommendation to the Board, and set a date for Board consideration and final determination at the next available regular meeting. No further evidence shall be taken by the Board at that time, but the Board may remand to the Director should it require further investigation.

(B) If the Board adopts the recommendation of the Director, it may then direct the tax collector to deed the property to the County not earlier than thirty (30) days from the date of the Board's determination of waste or abandonment and the declaration of forfeiture, during which period the property may be redeemed by any party otherwise authorized by law to redeem the property. .

(C) Upon failure of any authorized party to redeem within 30 days after the Board acts, the tax collector shall execute and record a deed, terminating all redemption rights and cancelling all taxes and special assessments.

(D) The provisions of MCC 7.401(D) shall not apply to any property deeded to the County pursuant to this section.

(E) Should any parties remain in possession of the property after the execution and recording of the deed as provided herein, the County shall seek possession of the property pursuant to any and all rights and remedies available to the County as authorized or provided by law.

(F) Review of the Board's decision shall be taken solely and exclusively by writ of review, pursuant to ORS 34.010 to 34.100.

Section 3. This ordinance takes effect and Ordinance 630 is repealed 30 days after the date of adoption.

FIRST READING:

April 26, 2012

SECOND READING AND ADOPTION:

May 3, 2012


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Jeff Cogen, Chair

REVIEWED:

JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY: Joanne Fuller, Director, Dept. of County Management