



RON ROBERTS
SUPERVISOR, FOURTH DISTRICT
SAN DIEGO COUNTY BOARD OF SUPERVISORS

AGENDA ITEM

DATE: March 24, 2009

TO: Board of Supervisors

SUBJECT: REQUIRING RESPONSIBLE PARTY CONTACT INFORMATION WHEN RECORDING A TRUSTEE'S DEED (District: ALL)

SUMMARY:

Overview

The recent economic collapse of the housing market and mortgage defaults has created an unprecedented number of foreclosed homes. Many neighborhoods are seeing homes left vacant by former owners who abandon their homes in foreclosure. These properties may be left in disrepair and with dangerous conditions creating a negative environment promoting a harmful and hazardous situation for the surrounding neighborhood.

A Notice of Default is the first step of a foreclosure. This may lead to a Trustee's Deed, which is recorded following a foreclosure sale conducted by the trustee (lender) under a deed of trust after a default occurs. In the current economic climate the lender often becomes the owner of the property. When recorded by the Assessor/Recorder/County Clerk, the Trustee's Deed is an opportunity to collect current information for a responsible party. While the property is vacant pending sale by the lender, it may deteriorate to harmful, dangerous and unsafe levels. When those conditions exist, there is a need for neighbors, realtors, code compliance, fire and law enforcement to contact a responsible party to remedy the situation in a timely manner.

Under California law, the recording of this information is not required. By establishing an appropriate county ordinance, those properties in the unincorporated area would be required, under penalty of law, to include a page with the current contact information when a Trustee's Deed is recorded. The current county fee, for this additional recorded page, is \$1.00. Other cities in the region could use this ordinance as a model to expand this beneficial resource to their jurisdictions. Proposing a change in California law would encompass all such transactions throughout the state and ensure the recording of this vital information. However, this corrective measure is dependent on state legislative action that may take an extended period of time.

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These recommendations provide for a process to obtain contact information of a responsible party when a Trustee’s Deed is recorded in the unincorporated area of the county, and can be used as a model ordinance by other cities.

Recommendation(s)

SUPERVISOR ROBERTS

1. Direct County Counsel to determine if legally authorized, and if so, to develop an ordinance requiring responsible party information be recorded under penalty of law whenever a Trustee’s Deed is recorded by the Recorder and return it to the Board of Supervisors within 45 days.
2. Direct the Chief Administrative Officer to advocate a legislative change in California law that would make such a requirement statewide.

Fiscal Impact

There is no fiscal impact resulting from this action.

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

The recent economic collapse of the housing market and surge in home mortgage loan defaulting has created an unprecedented number of foreclosed homes in San Diego County. There were 19,577 foreclosures in 2008, up 133% from the previous year. Many neighborhoods were left with vacant homes when former owners abandoned their property during foreclosure. These properties are often left in disrepair and in a condition creating a negative environment that promotes a harmful and hazardous situation for surrounding homes.

Following a foreclosure, it is often difficult to locate the responsible party who could remedy dangerous and unsafe conditions. Realtors, neighbors, code compliance, fire and law enforcement all need this information to make timely contact with a responsible party who can remedy problems that may have arisen. Currently, formal recorded documents related to the transaction do not contain the necessary information for that purpose and this must be corrected.

A Notice of Default is the recorded document that a lender uses when a loan default has occurred under a deed of trust. It is the first step in non-judicial foreclosure of a deed of trust. However, this does not provide full authority for the lender to act on the property. It is not until the recording of a Trustee’s Deed by the trustee (lender) that authority is obtained. The lender may take corrective action on the property at that point.

Industry representatives feel that this is the proper point in the foreclosure process where current and complete contact information should be obtained for a responsible party. The information needed is a business name, mailing address, point of contact name and phone number.

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While this simple information could be captured on the face of the Trustee's Deed document, its content is controlled by the California Civil and Government codes. Further, if the information were incomplete or not present, there is a concern it could hinder the recording process. The method recommended by industry representatives and the Assessor/Recorder/County Clerk is a separate contact information page to be defined and required by ordinance. The current fee to record this additional page is one dollar. Mandating a contact information page with the recording of the Trustee's Deed would ensure the consistent availability of this necessary information.

The Board of Supervisors only has the legal authority to require by ordinance a recording for parcels within the unincorporated area of the county. However, such an ordinance could serve as a model for other jurisdictions who are facing the same issue. By elevating this issue to the state legislature, the collection of this necessary information could be incorporated into the Trustee's Deed document for consistency throughout the state.

Linkage to the County of San Diego Strategic Plan

n/a

Respectfully submitted,

RON ROBERTS
Supervisor, Fourth District

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AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW	<input checked="" type="checkbox"/> Yes	
Written Disclosure per County Charter Section 1000.1 Required	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
GROUP/AGENCY FINANCE DIRECTOR	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
CHIEF FINANCIAL OFFICER	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
Requires Four Votes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
COUNTY TECHNOLOGY OFFICE	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
DEPARTMENT OF HUMAN RESOURCES	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A

Other Concurrence(s): n/a

ORIGINATING DEPARTMENT: District 4, Board of Supervisors

CONTACT PERSON(S):

James Duffy, Chief of Staff

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AUTHORIZED REPRESENTATIVE: _____

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AGENDA ITEM INFORMATION SHEET
(continued)

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

CONTRACT AND/OR REQUISITION NUMBER(S):

N/A