

LAW OFFICES

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ATLANTIC COUNTY
LAW DIVISION

Plaintiff DBW TL Holdco 2013 LLC d/b/a Tower DBW III 2013-3, vs. Defendants, CITY OF ATLANTIC CITY, a Municipal Corporation of the State of New Jersey; COMMUNITY CHAMPIONS CORPORATION d/b/a PRO CHAMPS,	SUPERIOR COURT OF NEW JERSEY LAW DIVISION ATLANTIC COUNTY DOCKET NO: L-778-17 CIVIL ACTION COMPLAINT IN LIEU OF PREROGATIVE WRITS
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Plaintiff, by way of Complaint, says:

1. This is an action seeking declaratory judgment and injunctive relief, seeking the invalidation of Atlantic City Ordinances found in Atlantic City Code Chapter 207 as applied to the holders of tax lien certificates, seeking permanent injunctive relief barring enforcement of such Ordinances against tax lien certificate holders, determining that the Ordinances violate the rights of the Plaintiff under the New Jersey Constitution, permanently enjoining the filing of complaints in Municipal Court

pursuant to such Ordinances, permanently enjoining Defendants from demanding or receiving payment for monies under such Ordinances, and compelling a refund of monies paid.

THE PARTIES

2. Plaintiff is DBW TL Holdco 2013 LLC d/b/a Tower DBW III 2013-3.
3. Defendant, City of Atlantic City, is a municipal corporation of the State of New Jersey.
4. Defendant, Community Champions Corporation d/b/a Pro Champs, is a Florida Corporation, registered to conduct business in the State of New Jersey,
5. Despite utilization of a fictitious name, "Pro Champs", Community Champions Corporation has not registered that name with the State of New Jersey for lawful use thereof.

THE ATLANTIC CITY ORDINANCES IN QUESTION

6. A true copy of Chapter 207-18 through 207-26 of the Atlantic City Ordinances is attached hereto as Exhibit A and incorporated as if set forth here at length.

ALLEGATIONS

7. Tax lien certificates are sold in order to assist municipalities in collecting revenue for real estate taxes and expenses.

8. The legislative objective of the Tax Sale Law, N.J.S. 54:5-1 et. seq., is to enable local governments to realize taxes by returning property to the paying tax rolls without first expending money to foreclose
9. Plaintiff, DBW TL Holdco 2013 LLC d/b/a Tower DBW III 2013-3, is the holder of a tax lien certificate against real property located at 16 North Montpelier Avenue in the City of Atlantic City, County of Atlantic, and State of New Jersey, hereafter known as the "Property." The certificate is held in the name of US Bank as Custodian for Plaintiff, although Plaintiff is the proper party in interest.
10. Defendant, City of Atlantic City, together and through co-defendant, Community Champions Corporation, has demanded that the Plaintiff register the Property, as well as others, as a vacant and/or foreclosure property, allegedly pursuant to the Atlantic City Ordinance, 207-17 et. seq., (hereinafter cited as "A.C.O."), as well as a state statute, N.J.S. 46:10B-51.
11. Neither the Atlantic City Ordinance nor the state statute apply to tax lien certificate holders.
12. Despite Plaintiff's protests to Community Champions Corporation that the Ordinance and Statute do not apply to tax lien holders, Defendants have rejected such protests

and have continued to allege that Plaintiff is responsible to comply with same.

13. In doing so, the position of the Defendants (that Plaintiff and other tax lien holders are governed by the Ordinance and statute) has been adopted by the Defendants as officially sanctioned or ordered policy of the City of Atlantic City.
14. Defendants have threatened to file quasi-criminal charges against Plaintiff in the event that Plaintiff fails to register the property as an abandoned property.
15. Defendants have also threatened to assess charges against Plaintiff in the event that Plaintiff fails to register the property as an abandoned property, and have further threatened to assess liens against the property.
16. As the holder of a tax lien certificate, Plaintiff is not subject to either the city ordinance or the state statute.
17. Plaintiff further alleges that the Ordinance is unlawful and unconstitutional.
18. In New Jersey, municipalities are but a creature of the State, capable only of exercising those powers granted to it by the Legislature. Timber Glen Phase III, L.L.C. v. Township of Hamilton, 441 N.J. Super. 514, 524 (App. Div. 2015).

19. The City of Atlantic City has not been granted the power or the authority to impose against tax lien certificate holders the obligation to register or maintain properties.
20. The City of Atlantic City has not been granted the power or the authority to charge, demand, or compel payment for the registration of properties.
21. There is no enabling legislation authorizing Atlantic City or any other municipality to charge, demand, or collect registration fees for allegedly vacant or abandoned properties.
22. To the extent that a municipal ordinance may involve costs or fees assessed against the public, it may not be a money maker but may only use reasonable efforts to offset the actual costs thereof.
23. A municipality may not simply attempt to raise revenue without enabling legislation from the State.

THE ORDINANCES IN QUESTION

24. As set forth hereafter, the Atlantic City Ordinance(s) in question do not apply to the holders of tax lien certificates.
25. A.C.O. 207-17(A) defines "Abandoned Real Property" as
Any real property located in the municipality, whether vacant or occupied, that is in default on a mortgage, has had a lis pendens filed against it by the lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the lender, is subject to an application for tax deed or pending tax assessor's lien sale, or has been transferred to the lender under a deed in lieu of foreclosure.
26. Using the definition of "Abandoned Real Property" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the Property does not involve a mortgage that is in default.
27. Using the definition of "Abandoned Real Property" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the Property does not have a lis pendens filed against it by the holder of a mortgage.
28. Using the definition of "Abandoned Real Property" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the Property is not subject to an foreclosure action by any lender.

29. Using the definition of "Abandoned Real Property" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because Plaintiff is not a lender.
30. Using the definition of "Abandoned Real Property" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the Ordinance does not define "lender."
31. Using the definition of "Abandoned Real Property" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the Property is not subject to an application for tax deed.
32. Using the definition of "Abandoned Real Property" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the Property is not subject to a pending tax assessor's lien sale.
33. Using the definition of "Abandoned Real Property" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the Property has not been transferred to a lender by deed in lieu of foreclosure.
34. A.C.O. 207-17(A) defines "Default" as

When a mortgagee declares said mortgage to be in default, either in writing, by recording a lis pendens, or by its actions, or commences foreclosure proceedings.

35. Using the definition of "Default" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because there is no mortgagee nor any mortgage in default.
36. A.C.O. 207-17(A) defines "Foreclosing" as
The process by which property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.
37. Using the definition of "Foreclosing" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the property was not placed as security for any real estate loan and has not and is not being prepared for sale to satisfy any debt.
38. A.C.O. 207-17(A) defines "Foreclosure" as
The judicial process by which a property, placed as security for a real estate loan, after a judicial process, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.
39. Using the definition of "Foreclosure" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the Property has not been placed as security for a real estate loan.
40. Using the definition of "Foreclosure" pursuant to A.C.O. 207-17(A), the Property does not meet that definition because the property is not to be sold at auction to satisfy any debt.

41. A.C.O. 207-17(A) defines "Mortgagee" as

The creditor, including, but not limited to, service companies, lenders in a mortgage agreement and any agent servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

42. Using the definition of "Mortgagee" pursuant to A.C.O. 207-17(A), the Plaintiff does not meet that definition because it does not and never had any interest in a mortgage.

43. A.C.O. 207-17(A) defines "Owner" as

Any person, legal entity or other party having any ownership interest, whether legal or equitable, in real property. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

44. Using the definition of "Owner" pursuant to A.C.O. 207-17(A), the Plaintiff does not meet that definition because it does not and never has had any ownership interest in the Property.

45. Oddly, A.C.O. 207-18 provides that "[T]his article relates to abandoned, vacant, and foreclosed property, whether occupied or vacant." To the extent that the Ordinance attempts to declare occupied property to be either vacant or abandoned, such a definition so defies logic as to be unconstitutionally vague, arbitrary, and capricious.

46. A.C.O. 207-18(A)(1) requires that "[a]ll owners, as defined in 207-17 above, must register vacant, abandoned, and/or foreclosed properties, whether or not they are occupied or vacant, with the Code Enforcement Office/Property Maintenance Unit.

THE STATE STATUTE

47. A.C.O. 207-18(A)(3) expressly provides that "if the property is in the process of foreclosure, the registration must be received within 10 days of the initiation of the foreclosure process as required by N.J.S.A. 46:10B-51.
48. Atlantic City premises its authority for its ordinance(s) on N.J.S. 46:10B-51.
49. However, N.J.S. 46:10B-51, by its own terms, does not apply to tax lien certificate holders.
50. N.J.S. 46:10B-51 was enacted as part of the "Mortgage Stabilization and Relief Act," P.L. 2008, c. 127.
51. N.J.S. 46:10B-51(a)(1) provides that "a creditor serving a summons and complaint in an action to foreclose on a mortgage on residential property in this State" must abide by the provisions of the statute. Emphasis added.
52. Plaintiff is not a creditor and has not sought to foreclose on a mortgage.

53. Consequently, N.J.S. 46:10B-51 does not provide any authority to Atlantic City to impose its police powers on the Plaintiff.
54. N.J.S. 46:10B-51(b) provides that "if the owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant at any point subsequent to the creditor's filing the summons and complaint in an action to foreclose on a mortgage against the subject property," after appropriate notifications by the municipality, the creditor "shall have the same responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property." Emphasis added.
55. By its own terms, N.J.S. 46:10B-51(b) applies to mortgagees, not tax lien certificate holders.
56. To the extent that A.C.O. 207-17(A) seeks to define an occupied property as abandoned real property, such definition is ultra vires, arbitrary, and capricious, and violates N.J.S. 46:10B-51.

THE ANNUAL FEE(S) DEMANDED ARE UNLAWFUL

57. To the extent that A.C.O. 207-19(D)(1) requires an annual registration fee of \$500.00, such assessment is unlawful.
58. There is no statutory authority granting municipalities the right to compel the registration of vacant or abandoned properties.
59. In fact, in 2013, the New Jersey Legislature considered the grant of such authority to municipalities in [See A-4031] but never enacted any enabling legislation.
60. Consequently, a municipality in New Jersey lacks the authority to compel the registration of vacant or abandoned properties.
61. There is no statutory authority granting municipalities the right to charge fees for the registration of properties that are allegedly vacant or abandoned.
62. In the 2013 bill that was never enacted, the Legislature considered a registration fee of \$250.00, however, no enabling legislation has ever been enacted.
63. Consequently, the \$500.00 fee demanded by the Defendants is ultra vires and unlawful.
64. To the extent that a municipality's police powers may empower it to compel the registration of vacant or abandoned properties, a municipality may only charge a fee

that is commensurate with the costs of administering such efforts.

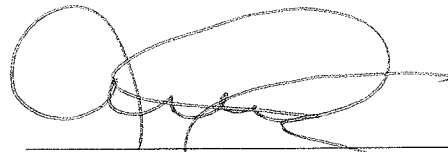
65. A municipality may not charge fees that are grossly in excess of the reasonable costs of administering such efforts.
66. The \$500.00 annual fee exceeds the reasonable costs of inspection associated with the Property and serves, instead, as an unlawful revenue raiser, a tax, and or an attempt by the City to punish property owners from the lawful use of real property.
67. Despite the \$500.00 fee required by the Ordinance, Defendants have demanded \$1,000.00 from the Plaintiff for the Property.
68. To the extent that A.C.O. 207-24(A) provides a \$500.00 fine per day for an "in-state creditor" but A.C.O. 207-24(B) provides for a \$2,000.00 fine per day for an "out-of-state creditor", the ordinance is unconstitutional.
69. Plaintiff has paid previous registration fees on other properties for which Plaintiff seeks reimbursement and repayment from the Defendants.
70. Plaintiff has the right under the New Jersey Constitution to be free of the threat of prosecution, whether criminal or quasi-criminal.

71. Plaintiff also has the right under the New Jersey Constitution to acquire, possess, and protect property, including tax lien certificates and real estate.
72. To the extent that the Defendants have threatened to file complaints in the Atlantic City Municipal Court against the Plaintiff, and/or to assess liens against the real property, the Defendants have been acting under color of law.
73. The threats of the Defendants interfere with Plaintiffs rights, privileges, and immunities secured by the state constitution and laws, causing damage to Plaintiff and entitling Plaintiff to injunctive relief and damages.

WHEREFORE, Plaintiff demands judgment against the defendants, determining and declaring that N.J.S. 46:10B-51 does not apply to tax lien holders; determining and declaring that the Atlantic City Ordinances are unlawful, ultra vires, and in violation of Plaintiff's rights under the New Jersey Constitution; ordering permanent injunctive relief barring enforcement of such Ordinances; permanently enjoining the filing of complaints in Municipal Court pursuant to such Ordinances; permanently enjoining Defendants from demanding or receiving payment for monies under such Ordinances; compelling a refund of monies paid, as well as for all damages available, together with

costs, counsel fees, and such other relief as this Court determines to be fair, just and proper.

Dated: April 11, 2017



HONIG & GREENBERG, L.L.C.
By: Adam D. Greenberg, Esq.
Attorneys for Plaintiff

DESIGNATION OF TRIAL COUNSEL

Adam D. Greenberg, Esquire, is designated as trial counsel.

Dated: April 11, 2017



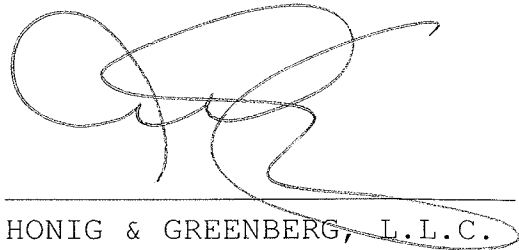
HONIG & GREENBERG, L.L.C.
By: Adam D. Greenberg, Esq.
Attorneys for Plaintiff

CERTIFICATIONS

The undersigned certifies that the matter in controversy in this action (a) is not presently the subject of any other pending or contemplated action or proceeding except: US Bank, N.A. Custodian for Tower DBW v. Eleni Georges, et als, Docket F-16596-16, (b) there are no other parties who should be joined in the action, (c) all personal identifiers have been redacted from this action and will be redacted hereafter.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are found to be willfully false, I am subject to punishment.

Dated: April 11, 2017

A handwritten signature in black ink, appearing to read 'Adam D. Greenberg', is written over a horizontal line. The signature is stylized with a large loop at the beginning and a long, sweeping tail that extends to the right.

HONIG & GREENBERG, L.L.C.
By: Adam D. Greenberg, Esq.
Attorneys for Plaintiff

EXHIBIT A

TO

COMPLAINT

Atlantic City NJ

Code of Ordinances

<http://www.ecode360.com/30831633>

Chapter 207: **Property Maintenance**

Article V: **Mortgage Registration of Properties in Foreclosure**

[Adopted 2-17-2016 by Ord. No. 3-2016]

§ 207-17 Definitions.

§ 207-18 Applicability.

§ 207-19 Registration of vacant and/or foreclosing properties required; duty to provide written notice.

§ 207-20 Maintenance requirements.

§ 207-21 Security requirements.

§ 207-22 Additional maintenance/security requirements.

§ 207-23 Inspections.

§ 207-24 Violations and penalties.

§ 207-25 Implementation and compliance.

§ 207-26 Supplemental provisions.

§ 207-17 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. Where the context will permit and no definitions are provided herein, the definitions provided in the State of New Jersey Building Code shall apply. When consistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

ABANDONED REAL PROPERTY

A.

Any real property located in the municipality, whether vacant or occupied, that is in default on a mortgage, has had a lis pendens filed against it by the lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the lender, is subject to an application for tax deed or pending tax assessor's lien sale, or has been transferred to the lender under a deed in lieu of foreclosure.

B.

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The designation of a property as "abandoned/foreclosed" shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed, and any default on the mortgage has been cured.

CITY

The City of Atlantic City, Atlantic County, New Jersey.

COMMERCIAL PROPERTY

Any real property and structure(s) for other than residential use.

DEFAULT

When a mortgagee declares said mortgage to be in default, either in writing, by recording a lis pendens, or by its actions, or commences foreclosure proceedings.

ENFORCEMENT AUTHORITY

The Code Enforcement Office/Property Maintenance Unit of the Department of Licensing and Inspections, the Police Department and any other department designated as such by the City Administrator.

ENFORCEMENT OFFICER

Any Code Enforcement Office/Property Maintenance Unit Officer, law enforcement officer, building official, zoning inspector, fire inspector or building inspector, or other person authorized by the City of Atlantic City to enforce the applicable code(s).

FORECLOSING

The process by which property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

FORECLOSURE

The judicial process by which a property, placed as security for a mortgage loan, after a judicial process, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

LOCAL PROPERTY MANAGER

An individual property manager, property maintenance company or similar entity located within a fifty-mile radius of Atlantic City, New Jersey, designated by the owner or mortgagee who is responsible for the maintenance of abandoned real estate.

[Amended 7-13-2016 by Ord. No. 36-2016]

MANAGEMENT COMPANY

A local property manager, property maintenance company or similar entity responsible for the maintenance of abandoned/foreclosed real property.

MORTGAGEE

The creditor, including, but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

OWNER

Any person, legal entity or other party having any ownership interest, whether legal or equitable, in real property. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

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PROPERTY

Any real estate, residential property, or portion thereof located in the City, including buildings or structures situated on the property. For the purposes of this section only, "property" does not include property owned or subject to the control of the City or any of its governmental bodies or agencies.

RESIDENTIAL PROPERTY

Any property that contains one or more dwelling units used, intended or designed to be occupied for living purposes.

SECURITY

Taking measures that assist in making the property inaccessible to unauthorized persons.

§ 207-18 Applicability.

[Amended 7-13-2016 by Ord. No. 36-2016]

This article relates to abandoned, vacant, and foreclosed property, whether occupied or vacant. This article shall be considered cumulative and is not superseding or subject to any other law or provision for same, but shall rather be a remedy available to the City of Atlantic City in addition to, above and beyond any other state, county and/or local provisions for same, and in addition to any other remedies in law or equity not set forth herein.

§ 207-19 Registration of vacant and/or foreclosing properties required; duty to provide written notice.

A.

Registration of real property by owner.

(1)

All owners, as defined in § 207-17 above, must register vacant, abandoned, and/or foreclosed properties, whether or not they are occupied or vacant, with the Code Enforcement Office/Property Maintenance Unit on forms to be provided by the Department of Licensing and Inspections' Code Enforcement Office/Property Maintenance Unit.

[Amended 7-13-2016 by Ord. No. 36-2016]

(2)

All registrations must state the individual owner's or agent's name, phone numbers and mailing addresses. The mailing address may not be a P.O. box. This registration must also certify that the property was inspected and identify whether the property is vacant at the time of filing. If the property is vacant, the owner and/or registrant must designate and retain an individual or local property management company responsible for the security and maintenance of the property. This designation must state the individual's or company's name, phone number and local mailing address.

(3)

If the property is in the process of foreclosure, the registration must be received within 10 days of the initiation of the foreclosure process as required by N.J.S.A. 46:10B-51. All owners must also

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provide proof of utility (gas, electric, water) connections or disconnections which must be submitted to the Code Enforcement Office/Property Maintenance Unit.

B.

Any mortgagee who holds a mortgage on real property located within the City of Atlantic City shall perform an inspection of the property serving as the security for the mortgage, upon default (as defined in § **207-17**) by the mortgagor, or within 30 days following issuance of a notice of default to mortgagor, either in writing, by recording a lis pendens, or by its actions, or commences foreclosure proceedings. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned, and the mortgagee shall, within 10 days of the inspection, register the property with the Code Enforcement Office/Property Maintenance Unit, his or her designee, or other authorized representative, on forms provided by the City of Atlantic City's Code Enforcement Office/Property Maintenance Unit. A registration is required for each foreclosed property.

[Amended 7-13-2016 by Ord. No. 36-2016[1]]

[1]

Editor's Note: This ordinance also repealed former Subsection C, which immediately followed, regarding property that is occupied but remains in default, and redesignated former Subsections D through I as Subsections **C** through **H**, respectively.

C.

Registration pursuant to this section shall contain, at a minimum, the name and address of owner along with the corresponding mailing address of both the mortgagee/servicer, e-mail addresses, and telephone numbers. The mailing address may not be a P.O. box. This registration must also certify that the property was inspected and identify whether the property is vacant at the time of filing. If the property is vacant, the owner and/or registrant must designate and retain an individual or local property management company responsible for the security and maintenance of the property. This designation must state the individual's or company's name, phone number and local mailing address.

(1)

The local property manager shall be responsible to inspect, secure and maintain the property. The local property manager named in the registration shall be located within a fifty-mile radius of Atlantic City, Atlantic County, New Jersey, and available to be contacted Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours excepted.

D.

Annual registration.

(1)

All property registrations are valid for one year from the date of registration. The initial registration fee is \$500 and must accompany the registration form. Subsequent annual registration fees are \$500 for the first renewal and thereafter. All applications and fees are due by the registration renewal date. Registration fees and renewal fees will not be prorated or refunded.

(2)

No state, county, or municipal governmental agency is required to pay the annual registration fee.

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[Amended 7-13-2016 by Ord. No. 36-2016]

(3)

Properties subject to this section shall remain under the annual registration, inspection, security, and maintenance standards of this section as long as they remain vacant.

E.

Change in status.

(1)

Any person or other legal entity that has registered a property under this chapter must report any change of information contained in the registration within 10 days of the change. There is no fee for modifying contact information if the organizational information remains the same and within one year of the last registration payment.

(2)

Once the property is no longer vacant or is sold or otherwise transferred, the owner must provide proof of sale, transfer or occupancy to the enforcement authority within 10 days of sale, transfer or occupancy.

F.

Failure of the owner to properly register or to revise from time to time the registration to reflect a change of circumstances as required by this chapter is a violation of this and may result in a citation by the Code Enforcement Office/Property Maintenance Unit subject to the penalty provided herein.

G.

Pursuant to a finding and determination by the Code Enforcement Office/Property Maintenance Unit or the Police Department that any property is in violation of the City ordinance or ordinances, and if not corrected within the timeframe prescribed in the notice of violation to mortgagee, the City may take necessary action to ensure compliance with its ordinance(s) and place a lien(s) on the property for the cost of the work performed, plus an administrative fee of \$100 to benefit the property and to bring it into compliance, which lien may be assigned to either the entity that performed the work or arranges to have the work performed.

H.

At such time that the property becomes abandoned, the mortgagee shall submit a no-trespass affidavit with the Code Enforcement Office/Property Maintenance Unit that the property has been posted as "No Trespass."

§ 207-20 **Maintenance requirements.**

A.

The owner of any property subject to this article shall:

(1)

Keep the property free of:

(a)

Dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal

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items, including, but not limited to, furniture, clothing, large and small appliances, or any other items that give the appearance that the property is abandoned or not being properly maintained.

(b)

Weeds, overgrown brush or dead vegetation over the height limitations imposed by the City's Municipal Code. The obligation to maintain shall include, but not be limited to, watering, irrigation, cutting and mowing of required landscape and removal of all trimmings and weeds.

(c)

Rubbish, broken glass, stumps, roots, obnoxious growth, filth, garbage, trash, refuse and debris, dead and dying trees or other natural growth which, by reason of rotting or deteriorating condition or storm damage within 50 feet of a structure on an adjacent property or public right-of-way, constitutes a hazard to persons or structures in the vicinity thereof.

(d)

Dilapidated bulkheads.

(2)

Maintain property on which and along which sidewalks and curbs are located in property condition and good repair, free of obstruction, debris, or other unsafe conditions, projections, obstructions, icy conditions, and snow accumulation.

(3)

Maintain the property free of graffiti or similar markings by removal or painting over with an exterior-grade paint that matches the color of the existing structure.

(4)

Keep pools, fountains, ponds and spas in working order or properly winterized and covered or lawfully demolished as that pool, foundation, pond and spa water remains free and clear of pollutants and debris. Pools, fountains, ponds and spas shall comply with the enclosure requirement of the City Codes and the State of New Jersey Building Code. Demolition or removal of pools, fountains, ponds and spas shall be performed in compliance with the New Jersey Building Code, the City Code and all other applicable laws, rules and regulations.

B.

Failure to maintain. Failure of the owner to properly maintain the property as required by this article is a violation of the City Code and may result in the issuance of a citation by the Code Enforcement Office/Property Maintenance Unit. Pursuant to a finding and determination by the Code Enforcement Office/Property Maintenance Unit that any property is in violation of a City ordinance or ordinances, the City may take the necessary action to ensure compliance with its ordinances and place a lien(s) on the property and assign it as provided elsewhere herein.

C.

Maintenance to comply with applicable laws, codes, rules and regulations. Properties subject to the requirements of this article must be maintained in accordance with all applicable federal, state and local laws, rules and regulations. The owner or local property management company must inspect the property monthly for the duration of the vacancy.

D.

Posting of notice on vacant or abandoned property.

(1)

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When a property becomes a vacant, abandoned/foreclosed property, within not less than 10 calendar days following the date it becomes vacant or abandoned, the property shall be posted with the name and twenty-four-hour contact telephone number of the local property manager. The posting shall be no less than 18 inches by 24 inches, and shall be of the font that is legible from a distance of 45 feet. The posting shall contain the following language: "THIS PROPERTY IS MAINTAINED BY (name of the local property manager). TO REPORT PROBLEMS OR CONCERNS, CALL (telephone number of local property manager)." The sign shall be kept properly maintained and legible during the period of vacancy.

(2)

The posting shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials. The posting shall be kept properly maintained and legible during the period of the vacancy.

E.

Not exclusive. Adherence to this section does not relieve the owner of any applicable obligations set forth in this code, covenant conditions and restrictions, and/or homeowners' association rules and regulations.

§ 207-21 **Security requirements.**

A.

Properties subject to these sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

B.

A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by re-glazing of the window.

C.

If a mortgage on a property is in default, and the property has become vacant or abandoned, a property manager shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with the applicable code(s), and the property manager must perform regular inspections to verify compliance with the requirements of this article and any other applicable laws.

§ 207-22 **Additional maintenance/security requirements.**

The Code Enforcement/Property Maintenance Officer, police officer or other designee, or authorized representative, shall have authority to require the owner of any property affected by

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this article to implement additional maintenance and/or security measures, including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably required to help prevent further decline of the property.

§ 207-23_Inspections.

The enforcement authority shall have the authority and the duty to inspect properties subject to this article for compliance and to issue summonses for any violations.

§ 207-24_Violations and penalties.

A.

Failure to initially register with the enforcement authority is punishable by a fine of \$500.

B.

Failure to report any change of information contained in the registration within 10 calendar days of the change is punishable by a fine of \$500 for each day after the expiration of the 10th calendar day continuing through to the day prior to the date on which the information shall have been supplied.

C.

Failure of an in-state creditor to identify the name of the individual or property management company is punishable by a fine of \$500 for each day of the violation. Any fines imposed on a creditor for the failure to appoint an in-state representative or agent shall commence on the day after the ten-day period set forth in Paragraph (1) of Subsection a of Section 17 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51) for providing notice to the Municipal Clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

D.

An out-of-state creditor found by the municipal court of the City of Atlantic City, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-state representative or agent pursuant to this article shall be subject to a fine of \$2,000 for each day of the violation. Any fine imposed on a creditor for the failure to appoint an in-state representative or agent shall commence on the day after the ten-day period set forth in Paragraph (1) of Subsection a of Section 17 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51) for providing notice to the Municipal Clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

E.

A creditor found by the Municipal Court of the City of Atlantic City, or by any other court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this article shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this subsection shall commence 31 days following receipt of the notice, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

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In addition to the fine set forth above, the creditor shall be responsible for the costs associated with cleanup, including, but not limited to, tipping fees and overtime for use of personnel and equipment which shall constitute a lien on the property.

F.

Where the property is vacant or shows evidence of vacancy, and foreclosure proceedings have not been initiated, the failure of an owner or creditor to file a registration within the required ten-day period following the enforcement authority's first notice of violations or summons for improper maintenance is punishable by a fine of \$500 per day, which shall commence on the day after the ten-day period set forth in Paragraph (1) of Subsection a of Section 17 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51) has expired.

G.

Failure to renew a registration with the enforcement authority is punishable by a fine of not less than \$500 nor greater than \$2,000 per occurrence. Each day during which the registration was not renewed following its expiration shall be deemed a separate occurrence.

H.

As required by N.J.S.A. 48:1.12s, no less than 20% of any money collected pursuant to this section shall be utilized by the municipality for municipal code enforcement purposes.

I.

In all cases where, after expiration of the notice and opportunity to comply with any of the requirements set forth in this chapter, such condition is corrected by the City by or under the direction of the Department of Licensing and Inspections or by a contractor retained by the City, including, but not limited to, mowing, removal of brush, weak, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris removed from any land or property, the Director of Licensing and Inspections or contractor, as the case may be, shall certify the cost thereof to the City Administrator who shall examine the certificate, and if found correct shall cause the cost as shown thereon to be charged against said lands

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The amount so charged, plus an administrative fee of \$100, shall forthwith become a lien upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

J.

Nothing contained herein shall prevent the Department of Licensing and Inspections, in a case of an unregistered or delinquent registered owner, from cleaning up the property on an as-needed basis and imposing a lien against the property for costs associated for cleanup as set forth in this section.

K.

Any fine(s) or cost(s) associated with cleaning up the property that remains uncollected or unpaid shall, by resolution of the City Council, become a lien upon the property, which lien shall hereafter form part of the taxes next to be assessed and levied upon said lands, the same to bear interest at

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the same rate as taxes to be collected and enforced by the same officers and in the same manner as taxes in accordance with the provision of N.J.S.A. 40:48-2.14 and this Code.

§ 207-25_Implementation and compliance.

Upon the effective date of the ordinance from which this article derives, any existing vacant or foreclosing properties shall have 30 days to comply with the provisions of this article.

§ 207-26_Supplemental provisions.

Nothing contained in this article shall prohibit the City of Atlantic City from enforcing its codes by any other means, including, but not limited to, injunction, abatement or as otherwise provided by the Atlantic City Code or applicable laws.