

Senate Civil Justice Committee
Senator David Goodman, Chairman

Proponent Testimony, Senate Bill 277
Senior Assistant City Attorney Robert A. Beattey
May 6, 2008

Chairman Goodman, members of the Civil Justice Committee, my name is Robert Beattey, and I am an attorney in the office of Columbus City Attorney Richard C. Pfeiffer, Jr. On behalf of City Attorney Pfeiffer, who was unfortunately scheduled to be out of town today, I thank the Chairman for scheduling Senate Bill 277 and Senator Stivers for sponsoring the legislation and seeing its wisdom. We also appreciate the hard work of Shawn Buskin in Senator Stivers' Office.

Senate Bill 277 does this:

- If a property is vacant and not being maintained to the health, housing, and safety codes, and
- any mortgage on the property has been in default for more than 12 months, and
- anyone with any interest in the property, including any lienholders, has been given the opportunity to fix the property and has not done so,
- then a municipal corporation may marshal any outstanding liens on the property, and initiate a foreclosure action using those liens as the basis.
- The priority for distribution of the proceeds from the foreclosure would remain unchanged by the city's action.

As far back as 2006, the City Attorney and I discussed data from the Claims and Collections section of the office revealing a gathering epidemic which has since manifested itself as a vacant and abandoned property crisis for the City of Columbus. And indeed, if Greater Ohio's recent study on the cost of vacant and abandoned properties in eight Ohio cities is to be believed, this crisis is not unique to Columbus or even limited to Ohio's large cities.

It would be unfair, however, to attribute the vacant and abandoned housing epidemic to the current meltdown of the sub-prime lending market. Though certainly an exacerbating factor, the recent sub-prime mortgage shenanigans cannot explain the here more-relevant impact of the economic forces which have for decades steadily and unmercifully leached capital away from center city neighborhoods across Ohio.

Setting aside those economic factors which lead to vacant and abandoned buildings – a subject where my depth of knowledge is soon revealed to be wanting – my job for the people of the City of Columbus is to figure out how to get vacant and abandoned properties back into productive use. And that brings me really to my first important point: for a property to be eligible for abatement under SB 277, it must first be vacant. A municipal corporation cannot marshal liens for a foreclosure unless a property

is vacant and not in compliance with city codes. I have been using the phrase “vacant and abandoned” to refer to these properties and it is actually something of a term of art – in my world that conjures up a very specific type of property, one which has been vacant for an extended period of time and for which no one is taking responsibility; to be blunt they’re properties where all hope of private action is lost. Indeed, the latest version of this Bill has a provision which allows a party with a financial interest in a property to prevent a marshaled foreclosure until the mortgage on the property has been in default for at least one year.

I can report to you and the committee, Mr. Chairman, that Columbus has not sat idly by as the vacant and abandoned property epidemic seeped further and further into our neighborhoods. In 2005 and 2006 major revisions were made to Columbus’ nuisance abatement code. Those changes allow us to seek injunctive relief against property which meets a definition of public nuisance which is very similar to the one found in SB277. When successful, those properties were returned to productive use through the actions of the owner or through a judicial sale initiated by the City. In 2006, the City began systematically and aggressively employing the nuisance abatement code, and two years later, we are only now in a position to start foreclosure proceedings on the earliest properties we filed against. As it stands now, it will be another year before those foreclosures are completed and the property has a clear title and the possibility of redevelopment.

So that, really, is my second point. Nothing in SB277 creates a new “right,” for lack of a better term, for a City to address public nuisances in the form of vacant and abandoned structures. What SB277 does do is shave up to two years from the process the City of Columbus must now employ to return vacant and abandoned property to productive use.

Mr. Chairman, Senators, cash and other capital may have long ago forsaken our core-city neighborhoods, but the people in those neighborhoods are still fighting to save the only place they’ve ever called home. SB277 doesn’t create some new ability for a city like Columbus to magically repair our neighborhoods, what it does is allow us to react more efficiently and expeditiously to check the advance of the very real menace to our City represented by the vacant and abandoned housing epidemic.

Thank you, Mr. Chairman and members of the committee for allowing me to be here today, and I would be happy to answer any questions you might have.