

CITY OF OAKLAND



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To: Vice Mayor Larry Reid, Chair of the Community & Economic Development Committee, & Members of the Oakland City Council

Cc: Michele Byrd, Director of Housing and Community Development, & Fred Blackwell, City Administrator

From: President Pro Tempore Rebecca Kaplan & Councilmember Dan Kalb

Date: May 22, 2014

Subject: A RESOLUTION ESTABLISHING COUNCIL POLICY TO CREATE A REGISTRY FOR VACANT GROUND FLOOR COMMERCIAL PROPERTIES AND FOR VACANT LOTS, AND DIRECTING STAFF TO RETURN TO COUNCIL WITH AN IMPLEMENTATION SYSTEM TO ACCOMPLISH THIS GOAL

Ground floor storefronts and lots in Oakland that have been vacant for an extended period of time have a depressive impact on the surrounding neighborhood and tend to attract illegal dumping and graffiti, which further negatively impacts surrounding businesses and undermines economic vitality. Vacant storefronts and vacant lots have a more detrimental impact on economic viability than other types of vacancies because they are located in commercial corridors. Since vacancies that are not actively maintained tend to suffer from squatting, vandalism, and dumping, they not only repel would-be customers and patrons from commercial corridors but also place an undue burden on City agencies, such as the Police Department and Public Works, which drain their resources by routinely responding to the same vacant commercial storefronts to remove trespassers and remove illegally discarded refuse and debris.

A variety of factors contribute to such extended vacancies. In some cases, property owners are waiting to sell the property when the market goes up or have inherited land they do not intend develop for leasing.

In 2013, our Code Enforcement office received scores of complaints related to blight in vacant commercial buildings and lots. Many more problem properties likely exist and go unreported. There are approximately 422 vacant commercial buildings in Oakland being actively listed.

Existing Ground Floor Vacant Commercial Property Registration

Approximately 129 cities nationwide have vacant property registration programs. Nearby cities such as San Francisco, Alameda, Richmond and San Jose have implemented vacant property registration programs. However, some of Oakland's neighbors are finding that a specific *ground floor or storefront* vacant property registration program may be more effective than an entire vacant building registration.

In San Francisco, a August 2013 report from Budget and Legislative Analyst noted that, after implementing San Francisco's vacant building registration program in 2009, only a limited subset of buildings were registered because many buildings were not fully vacant. A San Francisco vacant storefront property registration program ordinance has been drafted and is expected to be brought forth to their Board of Supervisors in the near future. That proposed ordinance includes a requirement to register the vacant storefront within 30 days and the subsequent issuance of violation notice if a vacant storefront is not registered. After a specified number of days, a \$750 registration fee would go into effect. Non-compliance with registration or the payment of the \$750 registration fee will trigger the City's existing collection process including additional penalty fees and property liens. Other requirements of the ordinance include sign posting, maintenance, security, and insurance.

The City of Berkeley has plans to complete a community survey that will include a proposed November 2014 ballot measure regarding a ground floor vacant property registration program. Their program will include a tax assessed after two years of vacancy with escalating assessment amounts for subsequent years of vacancy with provisions for hardship and opportunity for appeal. Berkeley stated in its analysis for the program that it is following a similar model used in Washington D.C. The Washington D.C. program charges a vacant registration tax of \$250 annually. Furthermore, Class 2 properties (which are mainly comprised of vacant storefronts) are subject to an additional levy of \$1.65 per 100 dollars of assessed value.

Topics for the Requested Staff Report

We recommend that the City Council adopt the Resolution accompanied by this report and direct staff to return to Council with proposed legislation and an implementation plan for a vacant ground floor commercial storefront and lot registry. As part of that effort, we request that staff research for the purposes of including provisions in the legislation in the following areas:

Online Registration

The registration program should be fully online, including the sign up, payment options, and resultant database.

Registration Exemptions, Fee Hardship Waivers, & Incentives

The drafted legislation should carefully articulate the standards for qualifying for registration, including a clear and narrowly-crafted definition which excludes innovative uses. Successful vacant storefront uses already exist in Oakland and further efforts can be made to integrate City services with these programs. Community benefit districts and business improvement districts in Oakland have made efforts to make vacant storefronts more attractive, including graffiti clean-up and by posting artwork in storefront windows. Old Oakland's and Downtown's pop-up hoods offering six months free rent for small businesses have re-energized commercial corridors with new customers and foot-traffic. These models could be further expanded citywide in all of Oakland's commercial corridors. Vacant lots have been successfully used as community gardens. If property owners are willing to participate in these types of innovative uses of vacant storefronts and lots, vacant property registration should not be

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required. Additionally, some properties or storefronts that fall within the scope of "vacant," as defined, might qualify for special exemptions for registration.

Furthermore, staff should also include fee waivers for property owners who can document a financial hardship. Additionally, consideration should be made for developing the City's feasible options for addressing special difficult situations involving either the frustration of purpose or effective implementation of the registration requirement, such as properties worth less than their liens or where the owner cannot be identified.

Incentives for registering property owners are also helpful to energize compliance with the program. In San Francisco, City & County staff are using the list of registered vacant property owners as a marketing tool to get spaces filled. Storefront SF is a site available through the City's Economic and Workforce Development website that lists all of the available vacant storefronts. San Francisco has plans to formalize this list with the ground floor commercial vacant property registration program and make the site easier to use for local businesses looking for spaces to lease. City staff should consider the feasibility of creating a GIS map for the site so that interested parties can easily locate areas they are interested in.

San Francisco staff are also currently offering registered vacant property owners additional information and help with programs SF Shines, which is a grant program for facade improvements. Oakland has similar neighborhood investment programs that include a facade improvement program and small business development loans that could be further marketed to registered ground floor vacant property owners.

Enforcement

Enforcement will be a key component to the success of a ground floor commercial vacant property registration because we want to make sure property owners follow through on vacant property maintenance requirements. Unfortunately, City staff availability will likely be too limited to address the extent of the anticipated non-compliance with such a program. Citizen enforcement has proven effective in stop gap in environment, consumer protection and good government regulatory programs. We urge the staff to consider including a private enforcement clause in the ordinance to allow for Oakland residents and BIDs to sue non-compliant property owners who are not complying with the ground floor commercial vacant property registration program and causing detriment to commercial corridors.

Recommendation

We recommend staff prepare a registration program ordinance for vacant ground floor commercial property and units and vacant lots that addresses innovative transparency, incentive and enforcement strategies.

Councilmembers Kaplan & Kalb

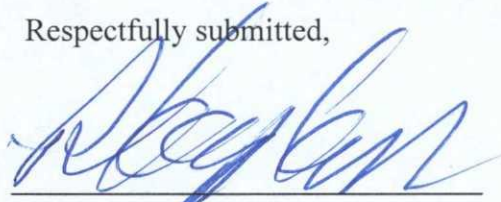
Subject: Establishing A Registry For Vacant Commercial Properties And Lots

Date: May 22, 2014

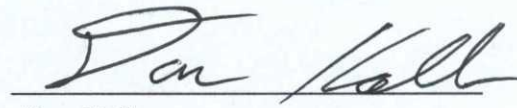
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For questions regarding this report, please contact Ada Chan at (510) 238-7083 or Oliver Luby at (510) 238-7013.

Respectfully submitted,



Rebecca Kaplan
President Pro Tem, Councilmember At-Large

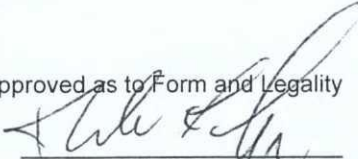


Dan Kalb
Oakland City Councilmember, District 1

Prepared by: Ada Chan & Oliver Luby

14 MAY 22 PM 4:50

Approved as to Form and Legality



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBERS REBECCA KAPLAN AND DAN KALB

A RESOLUTION ESTABLISHING COUNCIL POLICY TO CREATE A REGISTRY FOR VACANT GROUND FLOOR COMMERCIAL PROPERTIES AND FOR VACANT LOTS, AND DIRECTING STAFF TO RETURN TO COUNCIL WITH AN IMPLEMENTATION SYSTEM TO ACCOMPLISH THIS GOAL

WHEREAS, vacant ground floor commercial properties and lots that are vacant for lengthy periods create blight in the City's commercial corridors, attracting illegal activity such as vandalism and dumping, discouraging new businesses from moving to these commercial corridors, deterring customers to existing surrounding businesses, and depressing the economic vitality of the area, as well as decreasing potential business tax revenue for the City and draining City resources to address blight and related conditions; and

WHEREAS, property owners of vacant ground floor commercial properties and lots in some cases let properties remain vacant until the market goes up, are not willing to lower the rent in order to fill the vacancy, or do not otherwise make reasonable efforts to productively use their property and be good neighbors in the community; and

WHEREAS, a ground floor vacant commercial property registration program can help to track various types of vacant properties, providing a data resource for the benefit of property owners, City agencies, and the public, and contribute to incentivizing the leasing or sale of properties and their productive use; now therefore, be it

RESOLVED: That the Oakland City Council directs the Administration to return to Council within 120 days with draft legislation and an implementation plan to create and administer a registry for vacant ground floor commercial storefronts and vacant lots; and be it

FURTHER RESOLVED: That staff shall consider including the following components in the requested legislation: (1) creation of a requirement that ground floor units of commercial properties and lots which are vacant for more than six (6) months in any twelve (12) month period shall be required to register and pay an annual fee that finances the registration program; (2) a definitions section, including a definition of

“vacant” and “ground floor;” (3) clear standards for what properties qualify for registration, including possible registration exemptions, and criteria and procedures for determining hardship waivers for the registration fee; (4) registration procedures, including an online system and mandatory disclosure of registrant information, including, if possible, identification of a “marketing agent” for each registered property; (5) an online registration database and mapping system that can help owners, buyers, and those seeking to lease properties; (6) a proposed fee structure, including, if possible, variation based on property size or other factors contributing to variable City implementation costs; (7) online payment of the annual fee; (8) a sign posting requirement for the registered property that indicates that the property is registered as vacant and provides, if possible, contact information; (9) a failure-to-register complaint intake system and penalties that apply for failure to register or comply with the ordinance; and (10) a possible private enforcement option that gives residents or Oakland-based Business Improvement Districts, after proper notice to the violator and City, a waiting period and continued inaction, the authorization to file suit to enforce the ordinance and collect legal costs; and be it

FURTHER RESOLVED: That the report accompanying the staff proposals shall include (1) recommendations regarding an annual registration fee and issues related to the establishment of a fee, (2) suggested options for the provision of or resource referral for leasing or sale incentives or assistance to owners whose properties are in distress, (3) an implementation plan, including modification of the annual business tax mailing to provide notice of the new requirement, and (4), if any components listed in the first “Further Resolved” clause were not included in the legislation, an explanation for why the component could not or should not be included in the legislation.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, AND
PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California