

**RESOLUTION**

**Sponsor:** Rasheed N.C. Wyatt

**Subject:** **STRENGTHENING PROBLEM PROPERTY ENFORCEMENT BY AMENDING CHAPTER 341 OF THE CITY CODE**

**WHEREAS,** The decline of entire streets and neighborhoods is often triggered by problems associated with one or two properties, which makes it critically important that the City of Buffalo act quickly and aggressively to target these properties before the surrounding area is negatively impacted; and

**WHEREAS,** The large number of properties which must be addressed, the need for coordination amongst various City departments, the difficulty in locating out-of-town and absentee owners so that they can be cited and prosecuted, legal requirements relating to the amount of time which owners must be allowed for responding to and remedying violations, and the difficulty in recouping the City's costs for prosecuting owners and maintaining neglected properties are among the challenges the City faces in ensuring healthy neighborhoods; and

**WHEREAS,** Chapter 341 of the City of Buffalo Code, entitled *Property Maintenance*, is one of the City's primary tools for dealing with problem properties and it imposes certain duties upon property owners, occupants and persons having charge of lands relating to standards of maintenance, and upon certain City officials relating to enforcement; and

**WHEREAS,** In addition to following procedures that ensure that property owners are adequately notified of their rights, responsibilities and deadlines for correcting code violations, the duties which are imposed upon City officials by Chapter 341 include:

- "It shall be the duty of the Commissioner of Street Sanitation to see that the provisions of [article 1] are enforced." §341- 2, *Enforcing official; notification of noncompliance*;
- "In the event that the owner . . . receives notification to correct the violation and does not comply therewith, the Commissioner of Street Sanitation shall engage the services of a private contractor to perform the necessary work. The Commissioner shall charge and bill the owner for the cost of such services." §341-3, *Performance of work by City*;
- "Commissioner of Street Sanitation shall keep an account of all such work done and shall report to the Common Council all parcels of land upon which such work has been performed and the names of the owners of said parcels who have not paid for the cost of the work performed, and the Common Council shall thereupon order assessments on such lands for the unpaid sums so reported." §341- 4, *Reports and assessments*;
- "It shall be the duty of the Commissioner of Permit and Inspection Services or his designee to see that the provisions of this section are enforced." §341- 7(E)(1);
- "After service of this notice, if the property shows no sign of restoration, the Commissioner of Permit and Inspection Services shall engage the services of a private contractor to perform the necessary work. The Commissioner of Permit and Inspections shall charge and bill the owner for the cost of such services." §341- 7(E)(2);
- "If the owner or his duly designated representative appears at the time and place specified in the aforementioned notice to contest the necessity of the City causing the subject premises to be boarded, a hearing on such question shall be held before the [Commissioner of Permit and Inspections Services] or his representative." §341- 13(B);
- "If the owner shall fail to comply with a notice to enclose within the period specified in such notice or shall fail to comply with such notice as modified as a result of a hearing having been had, the City shall perform or cause such work to be performed." §341- 13(C); and

**WHEREAS,** In several instances however, Chapter 341 grants discretion to City officials to determine which course of action will be pursued in regard to a problem property:

- "The [Commissioner of Street Sanitation] may assign City personnel to do the work, in which case a charge as provided in Chapter 175, Fees, shall be made." §341-3, *Performance of work by City*;

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- "The [Commissioner of Permit and Inspection Services] may assign City personnel to do the work, in which case a charge as provided in Chapter 175, Fees, shall be made." §341- 1(E)(2);
- "The City of Buffalo shall have the right to enclose the building and that all costs and expenses incurred by the City will be recovered by action or by local assessment or both." §341- 13(A)(1);
- "As a result of such hearing, the original notice directing the enclosing of the subject premises may be affirmed, modified or vacated, but if the notice is modified, the time in which to complete the enclosure shall not be extended for more than three days." §341- 13(B);
- "If the owner shall fail to comply with a notice . . . or . . . with such notice as modified . . . the City shall perform or cause such work to be performed and may recover the expense either by action or by local assessment on the premises made, levied and collected as other local assessments or both." §341- 13(C); and
- "In no event shall such building or structure remain unoccupied and closed in for a period in excess of two months from the date of the notice specified in Subsection A [Notice; sealing requirements,] unless the owner has first filed a statement of intention to either demolish or rehabilitate said building or structure with the Department of Inspections and Licenses and has been granted written approval for an extension of time to rehabilitate or to demolish by said Department." §341- 13(D); and

**WHEREAS,** The City and Common Council have been criticized by neighborhood residents for being too lenient with problem property owners and for failing to exercise the full extent of their powers to dissuade prospective investors that are often solely financially motivated and neglect their properties, regardless of the consequences, if it maximizes their profits; and

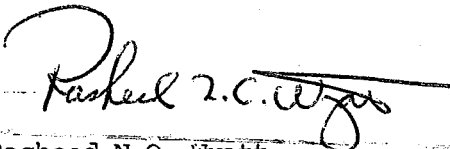
**WHEREAS,** While there is no silver-bullet solution and many of the difficulties involved in combating problem properties are largely beyond the Common Council's control, it is within the power of this honorable body to amend Chapter 341 of the City Code to ensure maximum disruption of the income stream of financially motivated absentee landlords.

**NOW THEREFORE BE IT RESOLVED,**

That the Common Council is committed to working with the City's Administration, Dept. of Law, Dept. of Public Works, Parks & Streets, Dept. of Permits and Inspections Services, Housing Court Officials, and neighborhood residents to thoroughly review Chapter 341 of the City Code with the goal of strengthening our Property Maintenance ordinances; and

**BE IT FURTHER RESOLVED,**

That Dept. of Law is hereby directed to draft an amendment to Chapter 341 of the of the City Code to be filed with the City Clerk for review by this honorable body that changes the wording contained within § 341- 13(C), which presently reads "the City shall perform or cause such work to be performed and *may* recover the expense either by action or by local assessment on the premises made, levied and collected as other local assessments or both," to instead read "the City shall perform or cause such work to be performed and *shall* recover the expense either by action or by local assessment on the premises made, levied and collected as other local assessments or both."

  
 Rasheed N.C. Wyatt  
 University District Council Member