

Dear Committee Members,

Attached is the first draft of the revisions to the blight ordinance that Attorney Vincent Freccia and I have been working on with the assistance of Representatives Matt Quinones and Gabe Deluca. It is attached so that you may review the proposed changes in advance of the Public Safety & Health Committee Meeting scheduled for this Thursday.

The draft revisions are, at this stage, simply proposals that we believe change the ordinance for the better. The proposed revisions are extensive and comprehensive and because of this I recommend replacing the current ordinance in its entirety with the proposed ordinance.

In its current form, the draft proposal does the following: 1) makes changes to the hearing procedures so that they comply with state statute; 2) expedites the entire enforcement process from initial warning, to citation, to appeal; 3) includes detailed property maintenance violations in the definition of blight as permitted by state law; 3) increases the penalty to \$100 per day, as permitted by state law; 4) allows for the entry onto property by city employees in emergency/safety situations, when the property owner gives us written permission, and by court order; and 5) clarifies and expands when blight funds may be utilized, as permitted by state statute. The ordinance also eliminates the Anti-Blight Committee and places the Anti-Blight Officer under the supervision of the Director of Operations. A brief summary of these changes is provided below.

## **1. CHANGES TO HEARING PROCEDURES**

### **Why necessary**

Connecticut General Statutes § 7-148(c)(7)(H)(xv) empowers the City with the authority to enact anti-blight regulations, including the right to impose monetary penalties. However, the statute provides the “if such civil penalties are prescribed, such municipality shall adopt a citation hearing procedure in accordance with [section 7-152c](#).”

The current hearing procedure set forth in the ordinance does not comply with this requirement. The citation hearing procedure prescribed by General Statutes § 7-152c provides the owner with a right of appeal to a citation hearing officer. It also prohibits the hearing from being held before the entity that imposes the penalty. The current hearings are not before a citation hearing officer. Instead, the “Level One” hearing is before the anti-blight officer and the Anti-Blight Committee.

### **Summary of Proposed Changes to the Hearing Procedures**

The Level One hearing and the hearing before the Anti-Blight Committee is eliminated. Instead, Sec. 146-48(b) provides the property owner with the right to appeal to a citation hearing officer as provided by Sections 97-1 through 97-8 of the Code of Ordinances.

## **2. EXPEDITING THE ENFORCEMENT PROCESS**

### **Why recommended**

The current ordinance provides for the following procedure. Once the Anti-Blight Officer (“ABO”) identifies a potentially blighted property, the ABO must provide the information to the Building Official who has 1 month to determine if the property has been abandoned and can be rehabilitated. Once the Building Official notifies the ABO of his or her determination, the ABO has one month to give notice of a “Level One” hearing to the property owner. The ordinance does not mandate that the Level One hearing occur within that one month time period, however.

Once the Level One hearing is completed, the ABO presents a list of blighted properties to the Committee. The Committee meets quarterly to conduct its business. After the ABO presents the list of blighted properties to the Committee, the Committee determines whether to certify the property as blighted. The daily penalty does not begin to run until fifteen (15) days after the date of the Certification of Blighted Properties by the Committee.

Also, once the Level One hearing is completed, the ABO must send a notice of decision to the property owner. If the property owner attended the Level One hearing, and the ABO has decided against them, they may appeal to the Anti-Blight Committee within fifteen (15) days of the date of the notice of the Anti-Blight Officer's decision. If the property owner does appeal, a formal hearing is scheduled with the Committee. If the property owner did not attend the Level One hearing, the ABO schedules the formal hearing with the Committee on his or her own. Per the ordinance, the Anti-Blight Committee has forty-five (45) days from the date of receiving the notice of appeal to schedule a hearing. Once that hearing is completed, and the Committee sends notice of its decision, the owner may appeal the decision to the Superior Court.

### **Summary of Proposed Changes to the Enforcement Process**

The ABO issues a Notice of Violation to the property owner. The property owner is given 7 days from date of notice to remediate the blight. If the owner fails to remediate the blight within 7 days, the ABO shall impose a \$100 daily penalty beginning on the 8<sup>th</sup> day. The ABO will also serve a written civil citation on the property owner informing the owner of the fine and his or her right to appeal to a citation hearing officer under Sec. 97-1 et seq., of the Code of Ordinances. The property owner must exercise this right of appeal within 10 days. Once the citation hearing is completed, the owner may appeal the decision to the Superior Court.

The proposed ordinance also includes an option to the property owner to attend a “resolution conference” with the ABO within 7 days of the Notice of Violation (and before fines

begin to accrue). (Sec. 146-49). The goal of this conference is to try to resolve the matter expeditiously, like the current Level One hearing.

### **3. INCREASING THE PENALTY TO \$100 PER DAY**

#### **Why recommended**

General Statutes § 7-148(c)(7)(H)(xv) allows for penalties of not less than ten and not more than one hundred dollars (\$100.00) per day. The current ordinance provides that the ABO may impose “a penalty of not less than ten and not more than ninety dollars (\$90.00)” per day.

The current ordinance allows for discretion in the amount of penalty imposed which could potentially become an issue if that discretion is exercised unreasonably. Further, the increase in the fine is consistent with its purpose, to encourage offenders to remedy the blight.

#### **Summary of Proposed Changes to Penalty**

The proposed ordinance provides that the ABO shall impose a penalty of \$100 per day, eliminating discretion and increasing the amount of the fine. 146-47(c)

### **4. ALLOWING FOR ENTRY ONTO PROPERTY BY CITY EMPLOYEES**

#### **Why recommended**

The current ordinance does not specifically provide that the City can enter onto property to remediate blight. Arguably, Sec. 146-50, which authorizes the city to take action to remediate blight when an owner fails to do so, provides this authority. However, since the issue involves government officials entering onto private property, the grant of authority should be specific.

Further, even if Sec. 146-50 authorizes entry onto private property, the ordinances does not prescribe any limitations to this authority. The entry onto private property by government officials must be careful not to violate the property owner’s constitutional rights—namely the owner’s 4<sup>th</sup> amendment rights (search and seizure) and due process rights.

#### **Summary of proposed changes to property entry**

The proposed changes to Sec. 146-50 specifically provide three situations where the City can enter onto property. First, by permission of the owner. Second, when there is a public health danger. And Third, by court order.

### **5. CLARIFYING AND EXPANDING WHEN BLIGHT FUNDS MAY BE USED**

#### **Why recommended**

The current ordinance provides that “(a)ll funds collected by the Anti-Blight Officer shall be deposited into an account to be administered by the Director of Administration to be used for

associated costs in enforcing and administering this article (i.e., legal fees, court costs, serving papers, Anti-Blight Officer's stipend, mailing and copying costs, etc.) which shall be a continuing account. Sec. 146-53(c).

Presently, the Blight Fund has several hundreds of thousands of dollars in it. The Board may find it is in the best interests of the citizens of the City to use these funds for other related matters.

**Summary of proposed changes**

In addition to paying for the costs associated with enforcing and administering the blight regulations, the proposed changes would allow the funds to be used to enforce and administer ordinances regulating state and local health, housing and safety codes and regulations, including expenses related to community police, as well as the remediation of blighted conditions.

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I look forward to discussing the proposed revisions with you Thursday night.

Very truly yours,

Dana B. Lee, Esq.  
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City of Stamford