
IN REM PROCESS

PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE - APRIL 24, 2023

COMMUNITY DEVELOPMENT/HUMAN SERVICES COMMITTEE - APRIL 25, 2023

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OBJECTIVES

- Does the city's administrative In Rem process follow best practices?
- Did the city's demolition orders consistently follow state law, city code, and its own In Rem policies and procedures?

ATLANTA HOUSING CODE

GOAL

“a safe, healthy, attractive and economically sound urban environment” by defining minimum standards for property owners to maintain their properties in order to protect public health and safety, while balancing against the “undesirability of imposing particular requirements upon owner-occupants.”

CITY'S GOAL IS OWNER COMPLIANCE

Inspector Activities

Inspect property to verify code violation(s) and leave a door tag

If non-highly hazardous violation(s) found, contact property owner

Re-inspect property after 30 days to determine if property owner repaired code violation(s)

If violation(s) still found, or highly hazardous violation(s), serve citation to owner to appear at municipal court

Possible Outcomes

1. The inspector closes complaint if no violation(s) found.
2. The inspector closes complaint if the owner brings the property into compliance,
3. The property owner appears at municipal court and agrees to repair code violation(s).
4. The property owner appears at municipal court and does not agree or is unable to repair code violation(s).
5. The property owner does not appear at the municipal court, municipal court judge resets hearing. Inspector re-attempts to serve property owner.
6. If none of the above resolve the violation(s), the inspector refers complaint to Compliance Resolution team for resolution by the city.

Source: Developed by auditors based on information from and interviews with Code Enforcement staff.

EXAMPLES OF VIOLATIONS



Source: Photos provided by Code Enforcement Housing Demolition Officer, taken during an In Rem inspection on June 1, 2022, with auditor present.

FINDINGS OVERVIEW

- City complies with In Rem requirements
- Code enforcement organizations do not provide best practices for In Rem
- City could use Judicial In Rem process to recoup costs
- Increased use of Vacant Property Registry would facilitate communication with owners
- City is not realizing full potential of software to track In Rem process

CITY COMPLIES WITH IN REM REQUIREMENTS

- City contacted owners of demolished properties
- City obtained required clearances and permits for demolitions

CITY CONTACTED OWNERS OF DEMOLISHED PROPERTIES

- City's In Rem process requires the city to make reasonable attempts to contact owners and other interested parties both before and after an In Rem Review Board hearing for a property.
- In our sample of 46 demolition files, we found documentation of these communications in all:
 - copy of letter sent by certified mail to owners/interested parties
 - copy of advertisement and email request to the legal organ
 - copy of lis pendens filing
 - photograph of complaint and hearing letter posted on the wall next to the front door of the property

CITY OBTAINED REQUIRED CLEARANCES AND PERMITS

Potential clearances and permits include:

- historical preservation clearance, if applicable
- environmental clearance, if applicable
- asbestos survey and abatement if asbestos is found
- permit for demolition

JUDICIAL IN REM PROCESS COULD RECOUP COSTS

- A 2014 report by the Center for Community Progress suggested that the city use the Judicial In Rem process (with the Judicial In Rem tax sale) instead of the Administrative In Rem process
- Judicial In Rem process, however, allows the county tax commissioner to collect the amount of the lien along with delinquent property taxes, and allows for a tax sale proceeding to recover costs if necessary

VACANT PROPERTY REGISTRY WOULD FACILITATE COMMUNICATION

- City's Housing Code requires owners to register vacant residential property
- From January 2016 to May 2022, vacant property owners registered only 3,486 properties in the property registry
- 92% of properties demolished by the city using In Rem proceedings were not registered in the vacant property registry

CITY NOT REALIZING FULL POTENTIAL OF SOFTWARE

- Data in Accela did not always match what was recorded in the Compliance Resolution team's spreadsheets
- The team uses spreadsheets and a file checklist to ensure that they have completed the required process steps
- Accela database has data fields available to track communications, tasks, contractors, and costs associated with the In Rem process

RECOMMENDATIONS

1. Work with the judicial agencies, Municipal Court and Solicitor's Office, to develop a road map and establish procedures and criteria for deciding which properties should be handled under Administrative or Judicial In Rem processes.
2. Develop a strategy to use various outreach methods to provide community education about the Vacant Property Registry.
3. Prepare for City Council consideration an ordinance to remove the vacant property registration/renewal fee.
4. Use Accela to record each step of the In Rem process.

QUESTIONS?

Full Report:

http://www.atlaudit.org/In_Rem_Process.pdf