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CITY OF LOS ANGELES FORECLOSURE REGISTRY PROGRAM

By John L. Hosack, Esq.

On July 8, 2010, the City of Los Angeles' Foreclosure Registry Program Ordinance became effective. This ordinance effects every beneficiary and trustee of a Deed of Trust on "...residential property..." in the City of Los Angeles.

The Ordinance, in summary, provides as follows:

- It was effective Thursday, July 8, 2010;
- The Ordinance applies to any "... residential real property..." which would appear to include both single family and multi family properties (L.A.M.C. Article 4, Section 164.02 L);
- The Ordinance applies to anyone which is either a "Beneficiary" of a deed of trust or a "Trustee" of a deed of trust (L.A.M.C. Article 4, Sections 164.02 C and N, and 164.4);
- While the Ordinance by its express terms is limited to a "... beneficiary or trustee, who holds, or has an interest in, a deed of trust on a Property in Foreclosure located within the City of Los Angeles..." it does not expressly address the issue of the obligations of a loan servicer or other persons (i.e., trustees of trusts, foreclosure agents, etc.) who may issue a Notice of Default. However, since violations of the Ordinance are to "... be treated as a strict liability offence regardless of intent" and that violations of the Ordinance can result in an administrative penalty, not to exceed \$100,000 per property per calendar year, loan servicers and others may want to see that there is compliance within the Ordinance by the beneficiaries and/or trustees of the loans which are being serviced; (L.A.M.C. Article 4, Section 164.08);
- There appears to be an error in the Definitions Section because it defines the phrase "Assignment of rents" as meaning "... an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another". (L.A.M.C. Article 4, Section 164.02 B). It is my opinion that the Ordinance was intended to apply to the assignment of the beneficial interest under the deed of trust not the assignment of the rents;
- The Property must be inspected "...prior to recording a Notice of Default with the Los Angeles County Recorder's Office." In addition, if the Property is occupied, while it is in default it must be inspected, at least, on a monthly basis. (L.A.M.C. Article 4, Sec. 164.04);
- The beneficiary and/or trustee "...shall ensure that utility services to the property are not terminated if the property is lawfully occupied." (L.A.M.C. Article 4, Section 164.7);
- Special provisions of the Ordinance apply to vacant structures (L.A.M.C. Section 98.0716);

- Within ten (10) days of the purchase and/or transfer of a loan/deed of trust secured by a residential property the new beneficiary/trustee shall record, with the Los Angeles County Recorder's Office an Assignment of Rents (sic.). (L.A.M.C. Article 4, Section 164.03);
- If the property is the subject of Notice of Default, the lender shall register the property with the City of Los Angeles using the Registration Form, or with the Mortgage Electronic Registration System (MERS), within ten (10) days of transfer, vacancy or subsequent vacancy (L.A.M.C. Article 4, Section 164.04);
- The Beneficiary/Trustee shall report to the City any change of address and change of contact information within ten (10) days of said change (L.A.M.C. Article 4, Section 164.04);
- The Beneficiary/Trustee shall maintain the property on a weekly basis. (L.A.M.C. Article 4, Section 164.04) See, the attached Department of Building and Safety's Basic Property Maintenance Descriptions;
- The Beneficiary/Trustee shall secure the property. (L.A.M.C. Article 4, Section 164.06); and,
- The Beneficiary/Trustee shall post on the property the property manager's name, address and 24-hour contact phone number. (L.A.M.C. Section 98.0716).

This ordinance limits the liability to foreclose and imposes new and different obligations on beneficiaries and trustees of deeds of trust on residential property in the City of Los Angeles.



John L. Hosack is a Shareholder in the Los Angeles office. He can be reached at (213) 891-5080 or email at jhosack@buchalter.com

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