



Abating

NUISANCE PROPERTIES

presented by
Columbus City Attorney
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www.columbuscityattorney.org



**Our goal is to
abate the nuisance**

pub·lic nui·sance

noun

1. an act, condition, or thing that is illegal because it interferes with the rights of the public generally.

**Columbus City Code
4703.01(F) – Definitions.**

**Ohio Revised Code
3767.01(C) – Definitions.**

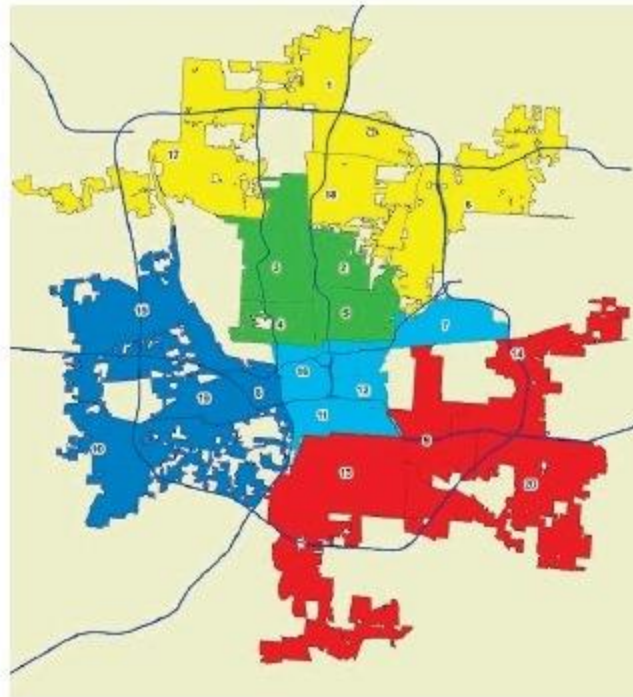


The Zone Initiative

Working in the community, helping neighborhoods.

An Assistant City Attorney is specially assigned to each of the five zones to work closely with the Division of Police, the Division of Fire, Code Enforcement, the Health Department, community groups and residents to identify and address public nuisances that blight the community.

Contact your assigned Zone Attorney to address problems associated with abandoned and deteriorating houses, open dumping, prostitution, illegal after-hours clubs, excessive noise, or trash and debris.



ZONE ONE

Bill Sperlazza—645-7479

wasperlazza@columbus.gov



ZONE TWO

Steve Dunbar—645-6914

scdunbar@columbus.gov



ZONE THREE

Kristen Kroflich—645-8928

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ZONE FOUR

Katarina Karac—645-8619

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ZONE FIVE

Shayla Favor—645-0402

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The Nuisance Abatement Process

Before we get involved.

Complaint Registered



**Code Enforcement officer inspects
property and writes order for code
violation(s)**



**Code officer must identify and locate
the owner in order to serve notice**



**Code officer posts the order on the
property and serves the owner with
notice of violation(s)**

Meeting with Code Enforcement

Every Friday morning Assistant City Attorneys and Code Officers meet:

- Has Code Officer communicated with the property owner?
- To what effect?
- Is the owner an individual or a corporation?
- If an individual, is the property a primary residence or an investment property?
- Will filing a legal action result in the nuisance being abated?
- If legal action is necessary, will it be civil or criminal?
- The defendant will be the owner listed on the county auditor's website.

Who is the owner?

Columbus City Code - 4703.01(E)

- 1) The owner of record as shown on the current tax list of the auditor of Franklin, Delaware, Pickaway, Licking, or Fairfield County, Ohio;
- 2) The mortgage holder of record, if any, as shown in the mortgage records of the recorder of Franklin, Delaware, Pickaway, Licking, or Fairfield County, Ohio;
- 3) Any person who has a freehold or lesser estate in the premises;
- 4) A mortgagee or vendee in possession. "In possession" means someone who evidences charge, care or control of the premises, and includes someone to whom the sheriff of Franklin, Delaware, Pickaway, Licking, or Fairfield County has issued a deed for the premises whether or not the deed has been recorded;
- 5) Any person who has charge, care or control of the premises as agent, executor, administrator, assignee, receiver, trustee, guardian or lessee;
- 6) Any person who holds himself or herself out to be in charge, care or control of the premises as evidenced by negotiating written or oral lease agreements relative to the premises, collecting rents for the premises, performing maintenance or repairs on the premises or authorizing others to perform maintenance or repairs on the premises.

Hausman v. Dayton, 73 Ohio St.3d 671 (1995)

- The mortgagee not in possession is not the owner.
- The owner is who is listed on the County Auditor's website.



Surrendering Property

Surrender does not compel the mortgagee to take possession:

- In re Arsenault, 456 B.R. 627 (Bankr.SD.Ga. 2011).
- In re Cormier, 434 B.R. 222, 233-234 (Bankr. D. Mass. 2010).
- In re Ogunfiditimi, 09-34778PM, 2011 WL 2652371 (Bankr. D. Md. July 6, 2011).

What do we search?

Like everyone else, we use public record searches to obtain information about the property and try to locate the owner:

- Franklin County Auditor
- Franklin County Recorder
- Ohio Secretary of State (if owner is a corporation)
- Public Access to Court Electronic Records (PACER)
- Franklin County Municipal Clerk of Courts
- Franklin County Common Pleas Clerk of Courts
- Franklin County Probate Court
- Google Search

What we run into

- **Quit Claim Deeds** – was there grantee acceptance?
- **Deceased owners** – estate not probated.
- **Bankruptcies** – owner discharged of debt; owner still responsible for property; owner surrenders property, we still hold the owner, not the mortgagee, responsible unless the mortgagee serves as the owner.
- **Forclosures** – banks don't follow through; wait to file deed until property is sold; deeds filed within seconds of each other.



Where do we file?

Judge Daniel R. Hawkins –
Environmental Division of the
Franklin County Municipal
Court.

The court's jurisdiction is
defined in:

- ORC 1901.181
- ORC 1901.183
- ORC 1901.185



Criminal Complaint

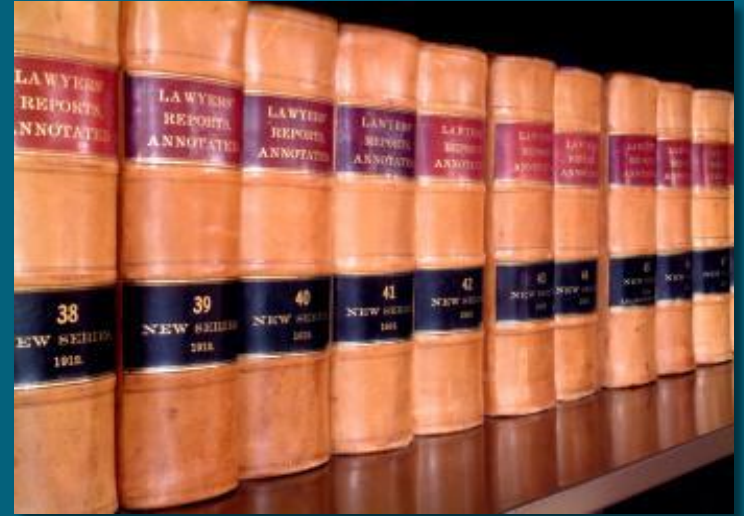
First Degree Misdemeanor – Up to \$1000 fine and six months in jail.



Mostly filed against individuals who we believe have assets available to abate the nuisance and the property is not their primary residence (with some exceptions).

Civil Complaint

- Secure an order declaring the property a nuisance.
- Establish date by which the nuisance should be abated.
- If the nuisance is not abated by that date, motion to show cause (contempt).
- Run penalty of \$250 a day.
- At some point, reduce the accumulated fine to a judgment and foreclosure.
- Two-thirds appraised value.



Receiverships

ORC 3767.41 – still working on this.

When owners and lien holders walk away

- Neighborhood Stabilization Program.
- Attorney General's Bank Settlement funds.
- Future Bank Settlements – Bank of America \$17 billion.
- City of Columbus capital funds.

Land Banks

- **City of Columbus Land Redevelopment Office**

John Turner, Director (jmturner@columbus.gov)

No guaranteed revenue stream.

- **Central Ohio Community Improvement Corporation**

John Rosenberger, President (jcrosenberger@cocic.org)

Guaranteed income from penalty and interest payments from delinquent taxpayers.

- **Acquire property** – donation and tax foreclosure.

- **Demolition or Rehab Programs** – VAP or Housing Division of City of Columbus, Department of Development.

Legislative Proposal

Am. Sub. H.B. 223 contains three basic components that would change laws governing judicial foreclosure in Ohio.



- New procedures to help expedite foreclosure actions for vacant and abandoned residential properties.
- General changes to current judicial sales procedures.
- A pilot program for unoccupied and blighted parcels in specified urban centers such as Columbus.

Focusing on the pilot program

- Applies only to “blighted” properties as defined in ORC Sec. 1.08
- Limited to those jurisdictions that have a housing division or environmental division of a municipal court: Toledo; Cleveland; and Franklin County.
- City files a complaint for injunctive relief alleging property is blighted and seeks to have the blight abated. Complaint is served on the owner of record and all lien holders.
- If neither the owner of record nor any lien holder abates the blight, then the City forecloses on the property at a Sheriff’s sale.
- The property will not be appraised but will be sold to the highest bidder free of all taxes and liens, except federal taxes, if any.
- Caveat: Bidders are limited to those who have been prequalified as committed and capable of abating the blight within 12 months of ownership.



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