

ORDINANCE NO. 2010-27

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF ORMOND BEACH, FLORIDA, BY CREATING ARTICLE V, TITLED "ABANDONED REAL PROPERTY"; PROVIDING FOR PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING FOR NOTIFICATION PROCEDURES; PROVIDING FOR THE REGISTRATION OF ABANDONED REAL PROPERTY BY MORTGAGEES; REQUIRING MORTGAGEES TO INSPECT AND MAINTAIN ABANDONED REAL PROPERTY; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR INCLUSION IN CITY CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission recognizes an increase in the number of vacant and abandoned properties located throughout the City; and

WHEREAS, it is important for Ormond Beach (hereinafter referred to as "City") to establish a process to address the amount of abandoned real property within the City; and

WHEREAS, the presence of vacant and abandoned properties can lead to a decline in property value, create attractive nuisances and lead to general decrease in neighborhood and community aesthetics; and

WHEREAS, the current conditions of vacant and abandoned properties present a serious threat to the public health and safety of the community; and

WHEREAS, the presence of vacant and abandoned properties may discourage buyers from purchasing property within the City; and

WHEREAS, many vacant and abandoned properties are the responsibility of out-of-state lenders and trustees who fail to adequately secure and maintain such properties; and

WHEREAS, the City Commission deems it to be in the City's best interests to create new regulations related to abandoned property and to include the maintenance of abandoned real property as well; and

WHEREAS, the City has a vested interest in protecting the City against the decay caused by vacant and abandoned properties and conclude that it is in the best interest of the citizens and residents to impose registration requirements on such properties located within the City; and

WHEREAS, the City Commission has determined that the ordinance contained herein is in the best interests of the health, safety, and welfare of the general public and the citizens of the City of Ormond Beach; now therefore,

BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORMOND BEACH, FLORIDA THAT:

SECTION ONE. Chapter 14, Offenses—Miscellaneous, of the Ormond Beach, Florida, *Code of Ordinances*, is hereby amended by adding a new article, to be numbered Article V, which should read as follows:

Article V. Abandoned Real Property.

Section 14-74.01 Purpose and Intent.

It is the purpose and intent of the City to establish a process to address the amount of abandoned real property located within the City. It is the City's further intent to specifically establish an abandoned residential and commercial property program as a mechanism to protect residential neighborhoods and commercial districts from becoming blighted through the lack or adequate maintenance and security of abandoned properties.

Section 14-74.02 **Definitions.**

The following words, terms and phrases, when used in the article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned real property means any structure, building or dwelling unit, as defined under the City of Ormond Beach *Land Development Code*, and the land on which it is situated thereon, that is vacant and is under a current Notice of Default, or subject to a recorded lis pendens, or Notice of Mortgagee's Sale by the lender or a pending Tax Assessors Lien Sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under deed in lieu of foreclosure or sale.

Accessible property means real property that is accessible through a compromised/breached gate, fence, wall, etc.

Accessible structure means a structure, building, or dwelling unit that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Enforcement officer means any employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city commission, including but not necessarily limited to, the city manager, assistant city manager, chief building official, neighborhood improvement manager, neighborhood improvement officer, police chief, police officer, community service officer, fire chief, fire enforcement officer, and any other person designated in writing by the city manger.

Evidence of vacancy means any condition that on its own, or combined with other conditions would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, accumulation of debris or refuse on abandoned real property, as defined herein, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

Foreclosure means a procedure in equity whereby a mortgagee either takes title to or forces the sale of the mortgagor's property to satisfy the debt if the mortgagor defaults.

Private real property means all land and improvements other than public land and improvements.

Property means any real property approved for residential or commercial use, or portion thereof located in the City of Ormond Beach, including buildings, structures or dwelling units situated on the property. For purposes of this ordinance only, property does not include property owned or subject to control of the City or any of its governmental bodies.

Property management company means a local property manager, property maintenance company or similar entity responsible for the maintenance of abandoned real property.

Public property means all canals and waterways, lands and improvements owned by a governmental body or any governmental agency including but not limited to easements and rights-of-way.

Residential building means any improved real property, or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property.

Vacant or vacated means a structure, building or dwelling unit deemed to be vacated and to have become vacant whenever an occupying owner or tenant ceases to occupy the structure, building or dwelling unit according to its intended use.

Section 14-74.03 **Applicability.**

This article shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the city above and beyond any other state, county and/or local provisions for same.

Section 14-74.04 **Registration of Abandoned Property.**

(a) Any mortgagee who holds a mortgage on real property located within the city shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issue of a Notice of Default. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall, within ten (10) days of the inspection, register the property with the City Manager, or his or her designee, or the City's agent, on forms provided by the City. A registration is required for each vacant residential property, or vacant commercial property. Land that has not been cleared and is in its natural state is not considered improved property for the purposes of this section.

(b) Registration pursuant to this article shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of mortgagee facsimile number and e-mail address and, in the case of a corporation or out-of-area mortgagee, the local property management company responsible for the security and maintenance of the property. The mailing address shall not be a post office box.

(c) The local property management company will be named in the registration and available to be contacted by the City, or the City's agent, Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours accepted.

(d) An annual registration fee in the amount of \$150.00, per property, shall accompany the registration form(s).

(e) This article shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

(f) Properties subject to this article shall remain under an annual registration requirement, security and maintenance standards of this section as long as they remain vacant or until mortgagee no longer has a security interest in the property.

(g) Any person or corporation that has registered a property under this article must report any change of information contained in the registration to the City Manager, or his or her designee, or the City's agent, within ten (10) days of the change.

(h) If the property is owned by a corporate mortgagee, a local property management company shall be contracted to perform bi-weekly inspections to verify compliance with requirements of this section, and any other applicable laws.

(i) The property shall be posted with the name and twenty-four (24) hour contact phone number of the local property

management company. The posting shall be no less than an eight-inch by ten-inch sign. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY:

TO REPORT PROBLEMS OR CONCERNS CALL:

The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. Exterior posting shall be constructed of and printed with weather-resistant materials.

(j) Upon the request of the city, the local property management company shall provide a copy of the inspection reports to neighborhood improvement division.

(k) Failure of the mortgagee and/or property owner of record to properly maintain the property shall constitute a violation of this ordinance.

Section 14-74.05 **Maintenance Requirements.**

(a) Properties subject to this article shall be maintained according to the City of Ormond Beach Code of Ordinances, including but not limited to Chapter 14 as well as the City of Ormond Beach Land Development Code.

(b) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Section 14-74.06 **Security Requirements.**

(a) Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons or animals.

(b) A "secure manner" shall include, but be not limited to, the closure and locking of windows, doors, gates, fences, swimming pool enclosures, and other openings of such size that may allow a child or adult to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding of the window.

Section 14-74.07 Immunity of Enforcement Officer.

Any enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this chapter.

Section 14-74.08 Additional Authority.

The City Manager, or his or her designee, shall have authority to require the mortgagee and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including, but not limited to: securing any and all door, window or other openings; abatement of any health, safety, or sanitary hazards; additional landscape or lawn maintenance measures; or other measures as may be reasonably required for safety purposes or to help prevent further decline of the property.

Section 14-74.09 Penalties and Enforcement.

The provisions of this article shall be enforced and penalties imposed pursuant to Chapter 2, Article VII, and Chapter 14, Article VIII, of the City of Ormond Beach *Code of Ordinances*, as well as all other remedies allowed by law.

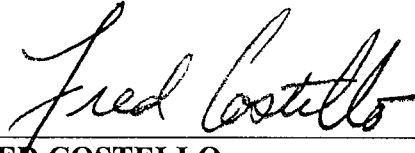
SECTION TWO. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION THREE. In the event any word, phrase, clause, sentence, paragraph, term, or provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, such judicial determination shall not affect any other word, clause, phrase, sentence, paragraph, term or provision, of this Ordinance, and the remainder of this Ordinance shall remain in full force and effect.

SECTION FOUR. This Ordinance shall take effect immediately upon its adoption.

PASSED UPON at the first reading of the City Commission this 6th day of April, 2010.

PASSED UPON at the second and final reading of the City Commission this 20th day of April, 2010.



FRED COSTELLO
Mayor

ATTEST:



VERONICA PATTERSON
City Clerk

**CITY MANAGER
MEMORANDUM**

To: Honorable Mayor Costello and City Commissioners

Through: Joyce A. Shanahan, City Manager

From: Michael Longfellow, Police Chief

Date: April 1, 2010

Subject: Foreclosure Registry Program

Introduction: This is a request to approve a foreclosure registration program and a request for direction on implementation. The ordinance establishes a foreclosure registration program wherein lending institutions are required to register properties with the City and provide continual maintenance of those properties until such time as the property is sold to a private individual. Additionally, direction is needed on the method to implement the ordinance by using current staff or outside contractual services.

Background: Foreclosures and bankruptcies are on the rise. The Neighborhood Improvement Division staff spends an inordinate amount of time tracking and contacting financial institutions and/or their property maintenance contractors in order to gain their cooperation by providing regularly scheduled maintenance of properties that are vacated and under foreclosure. In many instances, the mortgagee vacates the property upon notification of foreclosure. Vacant property creates a nuisance due to lack of maintenance, resulting in potential public safety concerns and liability issues.

➤ **Basis for a Foreclosure Registration Program:**

Based on Realty.com, approximately 210 properties are listed in Ormond Beach in pre-foreclosure status at which time notices are issued to the owner advising the mortgagee of the lenders intent to pursue foreclosure if the mortgage is not brought up to date. Another 108 properties are listed as already under notice of lis pendens. Although all 318 properties are listed in Ormond Beach, some of them may be located outside of the City's jurisdiction but have Ormond Beach addresses. Nonetheless, these numbers will give you a reasonable idea of the number of homes that can become overgrown or otherwise cause a potential nuisance to the neighborhood in which it is located.

The foreclosure registration program is designed to:

- Identify properties in foreclosure/bankruptcy status;
- Obtain contact information of financial institutions and their property maintenance contractors;
- Require lending institutions to identify and register all properties that are under their purview;

- Require the financial institution, through their property maintenance contractors, to keep these properties free of code violations through regularly scheduled maintenance.

The Neighborhood Improvement Division has already listed 47 properties within Ormond Beach that are being processed through either foreclosure or bankruptcy. In each case, staff has identified the mortgage lender and their property maintenance contractors to have the properties placed on a regular maintenance schedule. The staff has thus far been very successful in gaining cooperation from the lending institutions.

An advantage of the foreclosure program is that it requires all lending institutions to register all properties under their purview rather than limit NID's list to just those properties that have already resulted in citizen complaints. This will ensure that the lending institutions ward off any potential code violations by initiating maintenance before it becomes a problem. It also provides staff needed information so that staff can monitor those locations during their travels throughout the various neighborhoods. Should something become an issue, a contact number is immediately available so that the issue can be resolved quickly.

➤ **Contractual Services**

A secondary consideration is if a registration program is to be adopted by the City, shall the program be administered in-house or through outside contractual services?

Several months ago, senior staff met with representatives of the Federal Property Registration Corporation, FPRC, to discuss creating an agreement that allows FPRC to oversee a registry program with no upfront costs to the City. Mr. Thomas R. Darnell, Strategic Planning Executive, and Nicholas F. Tsamoutales, General Counsel for FPRC, presented a new approach to identify and manage vacant and foreclosed property. The purposes of the FPRC is to provide faster identification of distressed properties, violation resolution, allow local government employees to access current data on all vacant/foreclosed property through a streamlined central registry, assist local government in stabilizing property values, and generate revenue to local government with minimal impact on staffing resources.

To help determine the best option regarding oversight of this program, thirty-nine (39) jurisdictions were contacted to determine if they adopted a foreclosure registry program and how the program is monitored. Twenty-five (25) jurisdictions throughout South Florida responded. Fifteen of those jurisdictions have not established a registry program. Those jurisdictions include Port Orange, Deltona, Volusia County, Edgewater, Oak Hill, Lake Helen, Debary, Orange City, Deland, Apopka, Brevard County, Cocoa Beach, Flagler Beach, Longwood and the Town of Windermere. Ten have either adopted the program or are in the process of adopting the program. Attached is a chart that identifies each of the jurisdictions that have either adopted the program or are in the process of adopting the program. The chart shows when the program was adopted, the registration cost, and how the program is supported. You will note that the majority of the communities contacted that currently have an

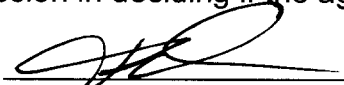
abandoned/foreclosure registry program have chosen to support the program in-house rather than contract those services to an outside agency. NID staff has spent a great deal of time in obtaining mortgage and property maintenance contact information. Thus far, staff has been extremely successful in obtaining the cooperation of mortgage lenders and property preservation companies. Therefore, NID staff believes that we can oversee the full scope of an abandoned/foreclosure property registration program given current staffing levels.

Discussion: Attached is a "Foreclosure Registry Program" ordinance that has been drafted using other jurisdictions' regulations and amended to address specific issues within the City of Ormond Beach. Also, attached is a draft agreement between the City of Ormond Beach and Federal Property Registration Corp (FPRC) to be reviewed if the City should desire to implement a registration program through the FPRC. Mr. Thomas R. Darnell and Nicholas F. Tsamoutales will be in the audience to address any questions the Commission might have with regard to this program.

Budget Impact: The majority of the jurisdictions utilizing a foreclosure registry levied a \$150 registration fee. If this program were implemented in-house, staff would collect the registration fee. If the Commission chose to use FPRC, FPRC would retain half of the registration fee agreed upon by the City Commission and FPRC.

Recommendation: Staff has provided three alternatives for consideration. Based on staff's experience and success in dealing with vacated properties thus far, #2 is recommended.

- 1) Make no changes to current regulations or procedures and direct staff to continue to track and contact financial institutions in hopes the financial institutions will agree to maintain properties under foreclosure or bankruptcy.
- 2) Approve the attached foreclosure registry ordinance, and direct staff to provide support services for the program.
- 3) Approve the attached foreclosure registry ordinance and contract with FPRC after the second reading of the ordinance to contact and coordinate property maintenance of foreclosure properties, properties under bankruptcy or otherwise vacant or abandoned. Staff recommends that should the City Commission wish to implement the program with FPRC, it is done on a six-month trial basis. Before the end of the trial, staff will provide the City Commission with a report that will assist the Commission in deciding if the agreement should continue.

Reviewed By: 
Theodore S. MacLeod P.E.
Assistant City Manager

3/30/10
Date

Approved By: 
Joyce Shanahan, City Manager

3/30/10
Date

FORECLOSURE REGISTRY PROGRAM

| Jurisdiction | Date of Adoption | Registry Cost | Renewal Required | Program Applied to which Zoning District | Program Served By | Cost |
|--------------------------|------------------|---------------|------------------|--|---|---------|
| City of Casselberry | 12/14/2009 | \$100.00 | Annually | Residential | In-House | |
| City of Coral Springs | 6/3/2008 | \$150.00 | Annually | Residential | In-House | |
| City of Daytona Beach | 11/18/2002 | \$150.00 | Annually | All | Not yet decided | |
| City of Lake Mary | 9/3/2009 | \$25.00 | Annually | All | In-House | |
| City of Longwood | not yet adopted | \$100.00 | Annually | Residential | In-House | |
| City of New Smyrna Beach | draft proposed | \$150.00 | Annually | All | Unknown | |
| City of Palm Bay | 11/20/2008 | \$100.00 | Annually | Residential | In-House | |
| City of Rockledge | Dec-09 | \$150.00 | One-Time Fee | All | Florida Property Registration Corp (FPRC) | \$75.00 |
| City of West Melbourne | 11/27/2009 | \$150.00 | Annually | All | Florida Property Registration Corp (FPRC) | \$75.00 |
| Town of Lady Lake | 9/23/2009 | \$150.00 | Annually | All | In-House | |
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Why Implement A Vacant and Foreclosed Registry?

General Overview

- The real estate crisis in Florida has created unexpected challenges for many communities, including a growing number of vacant, abandoned and neglected properties in all stages of foreclosure.
- The ability for local governments, police officers, fire officials and responsible neighbors to quickly and accurately identify and contact individuals responsible for these properties, is crucial to their ability to respond to code and safety issues that may arise.
 - In response to this problem, hundreds of cities across the nation and in our state are implementing *foreclosed and vacant property registries* to track vital property and management information.
 - These registries are being used as information resources and management tools to help enable local government, police officers, fire officials and responsible neighbors to quickly and accurately respond to code or safety issues that may arise.
 - Foreclosed and Vacant Property Registries vendors will help facilitate lender awareness and compliance with your local ordinance; collect vital foreclosed and vacant property information, including current contact information of responsible parties; and update the registry on a monthly basis
 - Foreclosed and vacant registries work to reduce the burden on local government resources as their communities struggle to respond to unsafe conditions, code violations and criminal activity at vacant properties.
 - Vacant and foreclosed registries protect neighborhoods and municipalities; lessens the burden on local resources; gives lenders the opportunity to protect and preserve their financial investment; and helps to stabilize property values in our communities.

Why Implement A Vacant and Foreclosed Registry?

Facts and Benefits

- **Imposes no new burdens on homeowners or individuals in any phase of foreclosure:** The local ordinance that creates the registry imposes no fees, burdens or requirements on homeowners or individuals that are in the process of foreclosure or that have been foreclosed on. The requirement is specifically for the lender to register the property and a current contact name for property management issues.
- **Ensures tax dollars are used as a last, not first resource:** Local governments incur significant costs associated with vacant, abandoned and foreclosed properties, which ultimately are absorbed by taxpayers. The registry allows government officials to be responsible stewards of tax dollars, by providing information on the responsible party for officials to contact when a code or safety issue occurs, and offsetting any costs to local government through the registry revenues.
- **Provides essential resources for law enforcement, fire officials, code enforcement and responsible neighbors** to report or respond to instances of crime, unsafe conditions and code violations.
- **Discourages criminal activity**, including recent examples where scam artists take false possession of foreclosed properties and rent or sell to unsuspecting victims (Orlando Sentinel, March 2010).
- **Stabilizes declining property values** by ensuring that responsible parties are identified and notified to maintain the vacant property.
- **Reduces the burden on local government** by removing the time consuming and burdensome task of managing vacant property information, allowing staff to be utilized in a manner that better serves the community.
- **Creates an opportunity for lenders to engage** earlier in the foreclosure process, to protect and preserve their financial investments.
- **Allows your community to be a leader** in cutting edge technology aimed at creating safer neighborhoods and protecting property values through a public-private partnership. Neighboring cities around the state are already participating, including Boynton Beach, Pinellas Park, Rockledge, St. Pete Beach and The Town of Cutler Bay.

Why Use Federal Property Registration Corporation?

General Overview

- The real estate crisis in Florida has created unexpected challenges for many communities, including a growing number of vacant, abandoned and neglected properties in all stages of foreclosure. The ability for local governments, police officers, fire officials and responsible neighbors to quickly and accurately identify and contact individuals responsible for these properties, is crucial to their ability to respond to code and safety issues that may arise.
- In response, many cities across the nation and in our state are implementing *foreclosed and vacant property registries* to track vital property and management information. These registries are being used as information resources and management tools to help enable local government, police officers, fire officials and responsible neighbors to quickly and accurately respond to code or safety issues that may arise.
- Federal Property Registration Corporation (FPRC) is a community partner excited to announce a simple and urgently needed solution to help address the growing problems associated with foreclosure, at no cost to local governments or taxpayers.
- FPRC has created a streamlined and efficient registration system, which uses advanced technology to provide vital information, including current contact information of responsible parties, about all vacant and foreclosed properties in your community.
- Local governments across the state, including Boynton Beach, Pinellas Park, Rockledge, St. Pete Beach and the Town of Cutler Bay, are already participating in, and seeing the benefits of FPRC's simple property registry process. These benefits include lessening the burden on local government resources and gaining effortless access to contact information to respond to unsafe conditions, code violations or criminal activity.
- FPRC partners with elected local leaders to create and pass an ordinance requiring lenders to register properties with FPRC within ten days of beginning foreclosure proceedings. On the registry, lenders are required to assign a property manager and current contact information for each property listed. FPRC will then facilitate lender awareness and compliance with the ordinance; update the registry on a monthly basis; and providing training and support to community partners accessing the online site.
- For every property registered with FPRC, lenders are required to pay a registration fee. Local government receives half of every dollar collected as either a new revenue stream, or to use towards neutralizing costs associated with foreclosed properties.
- Vacant and foreclosed registries protect neighborhoods and municipalities; lessens the burden on local resources; gives lenders the opportunity to protect and preserve their financial investment; and helps to stabilize property values in our communities. FPRC is committed to providing the best and easiest registration system possible.

FEDERAL
PROPERTY REGISTRATION
CORPORATION



neighborhood
WATCH

As foreclosures sweep the nation, crime, vandalism and decay threaten our neighborhoods. How can we fight blight?

www.vacantregistry.com

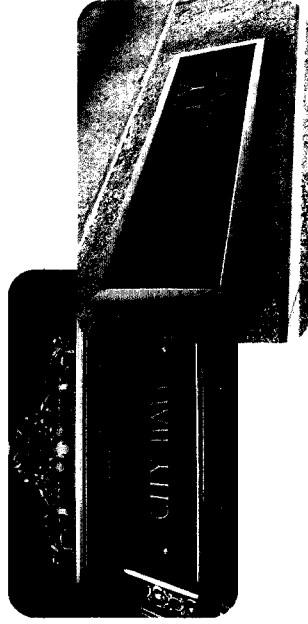
A New Approach to Identify and Manage Vacant and Foreclosed Property

Federal Property Registration Corporation's (FPRC) mission is to provide local governments with a process that addresses the imminent need for a centralized and conforming property registry. This registry is specific for abandoned and vacant property, due to many reasons, but not limited to foreclosure.



FPRC was founded by an expert team of legal and banking executives to address this ever growing problem.

FPRC's commitment is to foster partnerships between local government and lenders by providing solutions that help stabilize neighborhood property value and restore prosperity to communities.



BENEFITS OF REGISTRY

Provides faster identification of distressed property and quicker resolution of compliance violations

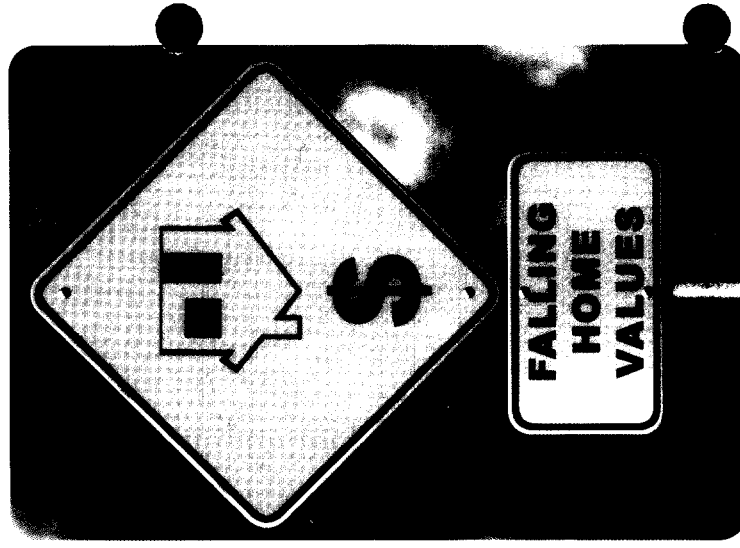
Generates revenue for local government

Assists in stabilizing neighborhood values

Improves public safety

Decreases crime and blight

Please call or email to request a presentation of how FPRC's service model can start working for your community!



**Federal Property
Registration Corporation**

(321) 421-6639

thesolution@vacantregistry.com

