



Foreclosed Property Registration and Mitigation Program

Indio, California

Chief Brad Ramos

Indio Foreclosure Registration and Mitigation Program

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Summary

The City of Indio is a city of almost 84,000 people located 120 miles southeast of Los Angeles in Riverside County. Although not a new city, the city has grown exponentially in the last 8 years. Approximately 40 percent of the current housing stock was built in the last housing boom. By late 2007, Indio found itself on the leading edge of what is now a national foreclosure crisis. With almost 10 percent of the housing stock in foreclosure, the community started to take notice. Faced with an alarming increase in the number of citizen complaints about blight and related public nuisance issues on foreclosed properties, along with concerns that these properties were leading to more serious crimes and disorder issues, the Indio Police Department launched a multi-part program aimed at containing and mitigating the impact these foreclosures were having to the community.

Under the direction of the City Council and the Chief of Police, Indio Police Department staff developed a three-part solution designed to reduce the impact foreclosures have on the community:

- 1) They created a comprehensive foreclosure registration and maintenance ordinance that requires banks and lenders to maintain all and register all vacant foreclosed properties with the Indio Police Department.
- 2) They utilized the Indio Police Department's Code Enforcement Team as the lead agency in their response and ensured adequate tools and resources were provided.
- 3) They partnered with the City's Redevelopment Agency and the Inland Fair Housing and Mediation Board to open a housing resource center focused on helping families stay in their homes.

Along with these efforts, the Indio Police Department conducted a media blitz, sponsored continuing education programs, hosted meetings with representatives of the banking and real estate community and partnered with community associations and members, all with the goal of reducing the effects foreclosures were having on the community.

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In the short time since the project was fully implemented, the Indio Police Department has already seen dramatic results. Four hundred-seventy properties have been registered in accordance with the new ordinance, resulting in the collection of \$70,500 in registration fees. More than 1000 notices were issued on foreclosed properties and more than 500 administrative citations (totaling more than \$80,000 in fines) were issued to lenders, realtors, and property managers. This effort, along with the efforts of the Indio Housing Resource Center made a substantial impact on the lives of the citizens within the community.

Scanning

Incorporated in 1930, the City of Indio is the largest and most populated city in the Coachella Valley of Southern California. The City has a total area of 27 square miles, with an estimated population of 83,937. Over the years, Indio has achieved international recognition for its multi-cultural festivals, such as Coachella Fest and Stagecoach Festival, which attract thousands of visitors to the area each year. Since 2000, Indio has witnessed a population surge of more than 57 percent. At its current rate of growth, Indio is projected to grow to more than 110,000 by 2010.

Presently, Indio is facing a serious problem with more than 2,800 homes in foreclosure. As the number of foreclosure filings continue to rise, desperate homeowners are becoming easy targets for unscrupulous individuals and businesses that seek to profit from their fears and need for mortgage counseling. Furthermore, hundreds of vacant and abandoned properties in Indio are becoming magnets for crime and blight. Between 2002 and 2007, Indio was on the forefront of the housing boom, and by January 2008, more than 1,400 homes were in foreclosure or pre-foreclosure. As stated by Indio Police Department Lt. Richard Bitonti, "the overgrown yards, damaged gates, and broken windows made it very inviting for local thieves." This situation has led to an increase in the number of citizen complaints about code violations and criminal activities related to foreclosed properties.

This Increase in foreclosure filings and high unemployment levels continue to foster recession-related crimes and disorder issues in the city. In March 2009, IPD reported a 48 percent increase in

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robberies, and a combined 8 percent increase in theft and vandalism, over the same period last year. A majority of these offenses occurred in neighborhoods affected by high levels of foreclosures.

Unfortunately, Indio Police Department found it increasingly difficult to locate responsible parties for the high number of vacant foreclosed homes. Crimes would often go unreported as many of these properties were being stripped of all of their valuable assets. All the while, Indio Police Department staff was spending countless hours trying to locate the banks and lending institutions that would take responsibility for these properties. Another problem Indio Police Department staff faced was the lack of laws or regulations that required banks or lending institutions to take responsibility for the condition and crimes occurring on these vacant foreclosed properties.

This perfect storm lead the community, city staff and city politicians to become increasingly aggravated about the conditions for foreclosed properties in their neighborhoods.

Analysis

The Indio Police Department is the largest, most visible branch of the city government, with 85 sworn personnel and 60 civilians, with a tradition of incorporating partnerships and problem-solving activities into its work. Somewhat unusual, the police department is also responsible for enforcing all municipal and public nuisance laws, and maintains a 12-member code enforcement team for that purpose. Therefore, it was logical that the department would take the lead in developing a response to the city's foreclosure problem. It was also no surprise to others in the city that this response would result in the shifting and sharing of responsibilities with all city departments and members of the community.

To start, the Indio Police Department wanted to better understand the nature of the problem. Indio Police Department staff analyzed code enforcement data, calls for service related to crimes occurring on foreclosed properties, citizen complaints of public nuisance violations, and proactive windshield surveys in neighborhoods seriously affected by this crisis. Staff interviewed residents losing their homes to foreclosure and community members struggling with the aftermath of so many displaced families. Indio

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Police Department staff also worked with the City Attorney's office to determine what legal options were available to hold banks and lenders accountable for the conditions of all these foreclosed homes.

To understand exactly what type of problems the city faced, Indio Police Department staff had to become experts in the California foreclosure process and had to learn some common terms associated with the foreclosure process. Some examples are:

- Deed of Trust – An instrument whereby an owner of real property, as trustor, transfers a secured interest in the real property in question to a third party trustee, said instrument relating to a loan issued in the context of a real property transaction. This applies to any and all subordinate deeds of trust i.e. 2nd trust deed, 3rd trust deed, etc.;
- Distressed – Any building structure or real property that is subject to a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessors Lien Sale and/or any real property conveyed *via* a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any real property conveyed *via* a deed in lieu of foreclosure/sale, regardless of vacancy or occupancy by a person with no legal right of occupancy;
- Foreclosure – The process by which real property subject to a deed of trust is sold to satisfy the debt of a defaulting trustor, i.e. borrower;
- Notice of Default – A recorded instrument that reflects and provides notice that a default had taken place with respect to a deed of trust, and that a beneficiary intends to proceed with a trustee's sale;
- Trustee – A person, partnership, association, corporation, fiduciary or other legal entity holding a Deed of Trust securing an interest in real property.

Indio Police Department staff also found that the foreclosure process in California was a “non-judicial” process. Meaning, that at no time is the court involved in the foreclosure process. Indio Police

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Department staff found that in many states a hearing is held before the court as part of the foreclosure process allowing local governments to petition that court for certain remedies, but in California this is not an option. Indio Police Department staff found that the court in California only facilitates “Trustee Sale” which usually takes place on the steps of the county courthouse. Unlike many states, this foreclosure process takes an extended period of time. Indio Police Department staff determined that for a typical foreclosure, the complete foreclosure process could take more than 300 hundred days to complete. Indio Police Department staff also determined that although these statutory times frames were extended, often times properties would sit vacant for years as banks and lenders struggled processing the overwhelming number of foreclosures on their balance sheet. During this time, these properties would sit unoccupied and completely unmaintained while the property was in a form of legal limbo.

During this analysis, Indio Police Department staff also wanted to identify some common identifiers and common traits shared by almost all foreclosed property they encountered. They are:

- Collection of mailers, door hangers and legal paperwork on or around the front door;
- Water service is turned off;
- Grass was completely dead and not maintained;
- Trees, hedges and all other landscaping were overgrown and not maintained;
- If there was a pool on the property, the water was green;
- Properties would be left unsecured by previous home owner and/or trespassers.

As part of this analysis, Code Enforcement staff, along with members of the city’s development department, inspected all of the neighborhoods in the city. This task was broken down by neighborhood and by teams. One day a week, each team would be assigned a specific neighborhood and would go door-to-door in search of vacant foreclosed homes. If a vacant property was located, it would be graded based on its condition. Below is an example of the grading system used:

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1. Unable to tell if house is vacant. Landscaping perfect. All grass and vegetation is maintained. House is secure;
2. Minor violations. Unable to tell if the house is vacant. Grass and vegetation has not been maintained for weeks and/or starting to die. Water has been recently turned off. House is secure;
3. Violations exist. Grass and vegetation is not being maintained or watered and is overgrown or dead. Water has been turned off. Other violations may exist including damaged fencing. Pool may be unsecured and/or green. House may be vandalized but is secure. House is obviously abandoned;
4. House stands out in the neighborhood. Grass and vegetation is dead. Water has been turned off. Other violations exist. Pool is not secured and pool water is green. House is vandalized and/or not secure;
5. Worst house in the neighborhood. All vegetation is dead. Water has been turned off. House is not secured and there are people living and partying inside. Evidence of transients and/or drug activity inside the house or on the property. This is the worst of the worst.

During these neighborhood surveys Indio Police Department staff would also check for properties that were occupied, but appeared to be in distress and had what we later identified as pre-cursors to foreclosure. When inspecting these properties, Indio Police Department staff would attempt to make contact with the homeowner or tenant, and ask a few simple questions about the property and their attempts to work with their bank or lender. Based on these interviews, Indio Police Department staff was able to find a common pattern of answers from homeowners:

- My bank didn't want to help in any way;
- My mortgage almost doubled when the ARM reset and my bank would not work with me;

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- I was never told when I purchased my home that my mortgage would go up so much;
- My bank would not work with me and blamed me for not understanding the terms of my loan.

During the analysis of this problem, Indio Police Department staff also looked for ways to obtain foreclosure information from electronic sources. Indio Police Department staff looked at various traditional property title and deed sources, including Dataquick, Metroscan, Win2Data and was unable to obtain accurate or timely information. Many of these sources did not even show who the lender was, let alone whether or not the property was in foreclosure. When information was available, it would only contain who the original lender was on the deed, and no information on whether the loan had been sold or the property refinanced. Indio Police Department staff also looked at various online sources for foreclosure and title data, including MIRS, Foreclosure.com, Realtytrac and LexisNexis. Although, this information was more accurate than the traditional sources, this data proved to be inaccurate and often time months old. Indio Police Department staff knew that in order to address this problem, they would have to have highly accurate information immediately available to them.

During this research, Indio Police Department staff along with the City Attorney's office conducted an exhaustive search for laws that would hold banks and lenders accountable for the conditions of these foreclosures. Indio Police Department staff, along with the City Attorney's office found no state or local laws that would require banks and lenders to take responsibility before a "Trustee's Sale". This oversight would become the basis for our response, and allow for the creation of a local ordinance governing the conditions of these foreclosure homes.

Response

All of this research and analysis of Indio's foreclosure problems lead the Indio Police Department to develop a 3-part foreclosed property registration and mitigation program. Indio Police Department staff believed that this comprehensive approach would help mitigate and reduce the affects of foreclosures in the community. Indio Police Department staff also determined that its number 1 effort would be to attempt

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to prevent homes from going into foreclosure. However, if those steps were unsuccessful, this approach would still be able to adequately respond to the effects of vacant properties. This 3-part program consists of:

1. A comprehensive foreclosure registration and maintenance ordinance that would require banks and lenders to maintain all vacant properties in foreclosure and register those properties with the Indio Police Department;
2. Utilize Indio Police Department's Code Enforcement Team as the lead agency in the response and ensure adequate tools and resources are provided;
3. Partner with the City's Redevelopment Agency and the Inland Fair Housing and Mediation Board to open a housing resource center focused on education and helping families stay in their homes.

In February 2008, the City of Indio was one of the first cities in America to adopt a comprehensive foreclosure registration and maintenance ordinance. Modeled after vacant property ordinances in the City of Chula Vista, and Stockton, California, this new ordinance holds banks and lenders accountable for the conditions their foreclosed properties cause to the community. This ordinance also requires banks and lenders to register each foreclosed property with the Indio Police Department. This ensures that accurate and timely information is available in the event there are crimes being committed or property maintenance problems with a foreclosed property. Highlights of this new foreclosure ordinance are:

- Requires banks and lenders to inspect the property prior to the filing of a notice of default to determine vacancy;
- Requires banks and lenders to register foreclosed properties with the Police Department as soon as they become vacant;
- Requires banks and lenders to notify the Police Department when a property or the property's loan or deed is transferred or sold;

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- Once a property becomes vacant, banks and lenders are required to fully maintain the property. This includes maintaining all grass, vegetation, fencing and other property maintenance issues;
- Requires banks and lenders to properly secure and monitor each property for criminal activity;
- Requires banks and lenders to hire a local property management company or manager that is available 24 hours a day. This allows immediate accesses to a responsible person in the case of an emergency or problem;
- Requires banks and lenders to pay a small registration fee designed to directly offset the cost of the enforcement of the ordinance;
- Violations of the ordinance are misdemeanors and can result in arrest;
- Violations can result in the issuance of administrative fines up to \$25,000 per violation.

After the creation of this new foreclosure ordinance, the city had to ensure that staff had the adequate tools for its enforcement. The Indio Police Department's Code Enforcement Unit was designated as the lead agency for this program. This 12-person team would serve as the City's front line personnel for the all aspects of this program. They were charged with identifying all foreclosures and properties possibly in pre-foreclosure and work with banks, lenders, and community members to mitigate the effects of these potential foreclosures. Code Enforcement also took the lead in educating banks, lenders, brokers, realtors, homeowner associations, and community members on the ill effects of foreclosures and the power of Indio's new Foreclosure Program. Code Enforcement also partnered with local realtors and realty associations, property managers, homeowner associations, and community members to build working relationships with shared responsibilities. During this time, Code Enforcement

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also dramatically increased enforcement efforts against banks and lenders to emphasize that non-compliance would not be tolerated.

Code Enforcement officers also took an active role in promoting the 3rd part of this comprehensive program, the Indio Housing Resource Center. This center opened in August 2008, and is the first city sponsored housing resource center in the region. The center houses counselors from the Inland Fair Housing and Mediation Board, a HUD-certified, nonprofit housing agency, and also provides free, confidential, default and foreclosure prevention services to all members of the community, not just residents of Indio. The City of Indio's Redevelopment Agency and Housing Agency was instrumental in the creation and implementation of this new center. They also provide a downtown storefront office space as well as funding for facility maintenance and advertising for the center.

Assessment

In the short time since this program was fully implemented, the Indio Police Department has already seen dramatic results. Four Hundred-seventy properties have been registered in accordance with the new ordinance, resulting in the collection of \$70,500 in registration fees. During the last quarter of 2008 and the first quarter of 2009, Indio Police Department's Code Enforcement Team inspected more than 20,000 properties in the city. They issued more than 1000 notices on foreclosed properties, and issued more than 500 administrative citations, resulting in \$80,000 in fines.

The Indio Police Department has also discovered that realtors have played a key partner in the program's success. Our information shows that realtor-listed homes registered and maintained in accordance with the ordinance are selling at a faster rate and at a higher price than unmaintained, dilapidated, bank-sold foreclosures. This provides realtors and the real estate community a strong financial incentive for partnership with the city and to improve the conditions of these otherwise undesirable properties which foster a sense of pride in each of our neighborhoods.

The Housing Resource Center has conducted 140 formal counseling sessions and has helped keep 139 families in their homes. The Center has also received more than 450 phone calls and more

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than 200 walk-ins from homeowners interested in receiving counseling and foreclosure process information. As a result of the immediate success, the city intends to continue funding the operation of the Center.

The Indio Police Department believes that without these efforts, the city would have seen a dramatic increase in the number of families displaced from our community, the number of unmaintained foreclosed homes, along with an increase in crimes associated with these properties. Based on these experiences, the Indio Police Department recommends the development of a National Foreclosure Policy and Foreclosure Ownership and Lender Database. The ability of local governments to obtain accurate information in a timely manner would be a huge first step in helping local law enforcement understand their foreclosure problem. Accurate information is absolutely vital when an officer responds to a call and needs to know who is responsible immediately, not after numerous hours of research.

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