



EXECUTIVE ORDER 2017-7

WHEREAS, 9 *Del. C.* § 330 provides the New Castle County Government with general powers and duties to direct, manage and control its business and finances; and

WHEREAS, 9 *Del. C.* § 1116 requires the New Castle County Executive to ensure that the duties and responsibilities of the executive and administrative agencies of the County are performed properly and that the work of the county offices, departments, and agencies is coordinated properly; and

WHEREAS, New Castle County, like many local governments across the nation, has experienced an increase of vacant and abandoned premises throughout the County; and

WHEREAS, vacant and abandoned premises blight neighborhoods, attract crime, and require the increased expenditure of County resources due to code violation abatements, property maintenance inspections, and public safety responses; and

WHEREAS, nonpayment of property taxes and sewer charges, unrecovered expenses incurred through the abatement of *New Castle County Code* violations, and unpaid fees and penalties assessed through the administrative enforcement process create significant financial strains on County government; and

WHEREAS, it is important to limit the drain of County resources caused by vacant premises, by property owners who neglect to maintain their properties, and by property owners who fail to pay taxes, charges, expenses, fees and penalties owed to the County; and

WHEREAS, the County may collect unpaid taxes, charges, expenses, fees and penalties through the monition process pursuant to the *Delaware Code*; and

WHEREAS, utilizing the monition process to recover delinquent monies is essential to the County's overall financial health and is an integral part of the County's vacant housing strategy to improve communities and shift the cost of vacancy to responsible parties.

THEREFORE, I, the County Executive, direct that the following procedure to be implemented:

1. Procedure for the Prioritization of Properties for Sheriff's Sale, attached hereto as Exhibit A.
2. This Executive Order shall become enforceable immediately upon signature by the New Castle County Executive. This Executive Order will remain in effect until and unless rescinded by subsequent order of the New Castle County Executive.

Matthew S. Meyer
New Castle County Executive

Dec. 1, 2017
Date

EXHIBIT A

PROCEDURE FOR THE PRIORITIZATION OF PROPERTIES FOR SHERIFF'S SALE

- I. **Prioritizing Eligible Properties.** The General Managers of the Departments of Land Use and Community Services, the Chief Financial Officer, and the Director of Public Safety, or his or her designees, shall form a review team to identify properties eligible for Sheriff's Sale. The Department of Land Use and Office of Finance shall provide a list of properties that meet the eligibility criteria for consideration. The eligibility list shall list all County liens for each property. From the eligibility list, the review team shall prioritize the properties based upon the criteria below. The review team shall meet regularly to review the list of properties eligible for Sheriff's Sale.

- II. **Eligibility List.** For the purpose of this section "County liens" may include any combination of: (1) property taxes; (2) school taxes; (3) sewer fees; (4) abatement liens filed through a Certification of Lien in the Office of the Recorder of Deeds; (5) statutory abatement liens that have been moved to the tax bill; (6) fees, charges, and penalties that have been moved to the tax bill; (7) any other fee or money that is due and payable to the County and that may be recovered through the monition process. Properties eligible for the monition process include:
 - A. Any parcel that is: 1) registered as vacant; and 2) encumbered by County liens that equal no less than \$5,000.
 - B. Any parcel that is: 1) encumbered by no less than \$7,500 of County liens; and 2) not occupied by a legal owner or tenant. This includes any parcel that appears vacant but is not registered as vacant.
 - C. Occupied parcels that are encumbered by \$10,000 of County liens unless collection activity through the monition process would violate a valid Executive Order.
 - D. Any parcel on which all habitable structures have been demolished by the County with public expenditures.
 - E. Any parcel that is encumbered by County liens of any amount where such parcel constitutes a threat to public safety evidenced by repeated calls for police service and as determined by the Chief of Police.
 - F. Any parcel meeting any other criteria for collection established by the Chief Financial Officer.

- III. **Priority List - Prioritization of Properties for Monition Process.** The review team shall consider the following criteria when creating the priority list. Formulating the priority list necessarily will be a subjective process, and the criteria are intended only to provide a framework for deliberation. Discretion may be exercised when determining the weight to

be afforded to each criterion. The review team shall forward the priority list, which shall list all County liens for each property, to the Chief Financial Officer and the County Attorney. Until such time as DNREC issues a favorable legal opinion on the tax sale exception to liability under the Hazardous Substances Control Act or the property is subject to a Brownfield Agreement with DNREC, the priority list shall exclude all properties that Land Use determines have a reasonable likelihood of environmental contamination

- A. *Public Safety Issues.* Calls for service; strain on public resources; blighting impact to the community.
- B. *Land Use/Economic Development priorities.* Comprehensive planning concerns, such as character areas, future land use maps, or corridor studies; long-term planning strategies, including redevelopment or rezoning areas; problem property issues, including violation and abatement history; future use of the land taking into consideration protected resources, such as floodplain or wetland issues; environmental or hazardous condition issues; and the cost of future abatements on the long-term marketability of the land.
- C. *Community Development priorities.* Neighborhood stabilization programs with public and private funding; nonprofit housing development areas of stabilization; areas identified by the County for stabilization efforts; benefits of grouping/cluster; marketability and partner interest.
- D. *Office of Finance considerations.* Receivables; economic benefits to County; potential compliance impact of collection activity.
- E. Marketability of the property.

IV. **Monition Process.** The County Attorney, or the County Attorney's designee, shall review the priority list for legal impediments to the monition process, including pending legal appeals, federal tax liens, and bankruptcy protection. The County Attorney, or the County Attorney's designee, upon consultation with the Chief Financial Officer and subject to the resources of the Office of Law, shall thereafter begin the monition process for those properties determined to be appropriate for Sheriff's Sale. The Office of Law shall provide the Chief Financial Officer, and the General Managers of Land Use and Community Services a list of properties on which monition pleadings have been filed and a list of properties that will not be subject to the monition process including the reasons therefore (i.e., legal impediments).

V. **Post-sale Procedure.** Within forty-eight (48) hours of the close of a Sheriff's Sale, the Office of Law shall notify the Chief Financial Officer, and the General Managers of Land Use and Community Services of the result of the sale. Within twenty (20) days of the sale, the Acquisition and Disposition team shall:

- For those properties for which the County holds the successful bid, notify the County Attorney of those properties the County should: 1) prepare for bid assignment; 2) proceed to confirmation; or 3) cancel the sale. All such decisions shall be made pursuant to the vacant housing strategy acquisition and disposition policy.
- For those properties for which a third party holds the successful bid, notify the County Attorney of those properties the County should cancel the sale due to the qualifications or liabilities of the third party. All such decisions shall be made pursuant to the Sherriff's Sale prequalification policy or the vacant housing strategy acquisition and disposition policy.

VI. **Cancellation of Sales.** The County Attorney shall confer with the Chief Financial Officer on all cancellations within thirty (30) days of the date of the Sherriff's Sale.