

Date 09-14-89
Original Clerk
Copy Ordinance
Proceed

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR THE COUNTY OF KLAMATH

IN THE MATTER OF ADOPTING AN)
ORDINANCE TO ALLOW THE FORFEITURE) ORDINANCE No. 55.A
OF REDEMPTION RIGHTS ON TAX)
FORECLOSED PROPERTY AND DECLARING)
AN EMERGENCY)

WHEREAS, House Bill 3395 is now in effect and provides for a method whereby counties may adopt an ordinance to allow for the forfeiture of redemption rights on tax foreclosed property that is subject to waste or abandonment; and

WHEREAS, notice of a hearing on the adoption of this Ordinance has been given in the manner provided by law; and

WHEREAS, property exists in Klamath County that has been foreclosed for back taxes and which is abandoned and subject to deterioration thereby making it likely that the property will not be worth the taxes owed on said property;

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS FOR KLAMATH COUNTY ORDAINS AS FOLLOWS:

1. Chapter 180 is hereby added to the Klamath County Code and is set out herein in its entirety:

CHAPTER 180

TAX FORECLOSED PROPERTY

180.005 Definitions. Except where the context otherwise requires, the definitions given in this section govern the construction of this Chapter.

(1) "Foreclosed property" means real property that has been foreclosed upon pursuant to ORS 312.090 but for which the redemption period provided for in ORS 312.120 has not run.

(2) "Redemption period" means that period of time provided for in ORS 312.120 during which an owner or person with an interest in foreclosed property may redeem the property by paying all taxes, interest and penalties due and owing.

(3) "Interested party" means any person, corporation or entity which has a recorded legal interest in a particular piece of real property, including judgment lien holders.

(4) "Waste" means any action which reduces the value of the foreclosed property, including, but not limited to physical damage to any or all of the foreclosed property or the failure to protect

the foreclosed property from the elements or from trespassers, irrespective of whether the action is done with or without the knowledge of the owner or possessor of the property.

(5) "Owner" means that person or persons last reflected in the county tax roll.

180.100 Forfeiture of redemption period. (1) The Board of County Commissioners may, after providing the notice required in KCC 180.200 and having the hearing provided for in KCC 180.300, enter an order requiring the Tax Collector of Klamath County to deed to the County, pursuant to ORS 312.200 any real property sold to the county under ORS 312.100 after the expiration of a period of 30 days from the date of the forfeiture action unless it is sooner redeemed by the owner or any person or entity that then appears in the records of the county to have a lien or other interest in the property if:

- (a) The property is subjected to waste which results in a forfeiture to the county of the right to possession under ORS 312.180; or
- (b) The property is not occupied by the owner or any person or entity that appears in the records of the county to have a lien or other interest in the property for a period of six consecutive months, and the property has suffered a substantial depreciation in value or will suffer a substantial depreciation in value if not occupied.

(2) No forfeiture of the redemption period for any real property currently being used as a residence shall be declared unless it is established that the residential real property has been subjected to such damage or deterioration in value so as to reduce the value of the property to less than three (3) times the amount of taxes, interest and penalties then owing on said property.

180.200 Notice.

(1) Upon determining that real property sold to the county under ORS 312.100 may be subject to waste or abandonment as provided in KCC 180.100 (1) (b), the Board of County Commissioners shall set a date, time and place for a hearing for the purpose of determining whether the property should be deeded to the county pursuant to KCC 180.100.

(2) Not less than 30 days prior to the hearing provided for in subsection (1) of this section, the county shall notify the owner and any person or entity that then appears in the records of the county to have a lien or other interest in the property of the hearing. The notice shall contain;

- (a) The date, time and place of the hearing;
- (b) The date of the judgment and decree;
- (c) The normal date of expiration of the period of redemption under ORS 312.120;
- (d) A warning to the effect that if the county determines that the property is subject to waste or abandonment as provided in this Chapter, that the property will be deeded to the county immediately

after the expiration of 30 days from the date of the Board of County Commissioner's action so determining and that every right or interest of any person in the property will be forfeited forever to the county unless the property is redeemed within that 30 day period;

- (e) A legal description of the property and a tax account number; and
- (f) The name of the owner as it appears on the latest tax roll.

(3) The notice provided for in subsection (2) of this section shall be given by both certified mail and by regular first class mail.

- (a) Notice given to an owner shall be addressed to the owner or owners, as reflected in the county records of deeds, at the true and correct address of the owner as appearing on the instrument of conveyance under ORS 93.260 or as furnished under ORS 311.55 or as otherwise ascertained by the tax collector of the county pursuant to ORS 311.560.
- (b) Notice given to a lienholder, or person or entity other than the owner, having or appearing to have a lien or other interest in the property, shall be addressed to the lienholder, person or entity at the address which the county knows or after reasonable inquiry, has reason to believe to be the address at which the lienholder, person or entity will most likely receive actual notice.

180.300 Hearing. At the time and place of the hearing as set out in KCC 180.200, the Board of County Commissioners shall hold a public hearing for the purpose of determining if the property is subject to waste or abandonment. The following procedures shall apply to that hearing:

(1) The Board of County Commissioners shall first hear from any Klamath County staff member with knowledge of the circumstances relating to the property.

(2) Persons wishing to testify in favor of the forfeiture of the redemption rights shall then be allowed to testify.

(3) The owner or owners of record may then testify.

(4) Any lienholder or person with an interest in the property that then appears in the records of the county may then testify.

(5) Any person otherwise opposing the forfeiture may then testify.

(6) Any person testifying shall be subject to cross-examination by either the Board of County Commissioners or the owner, lienholder or other person with an interest in the property.

(7) Written testimony will be accepted if submitted to the Board of County Commissioners at least 5 business days prior to the date of the hearing. Copies of written testimony shall be provided free of charge to an owner, lienholder or interested party who has notified the Board of County Commissioners, in writing, of their desire to be provided with copies of any written submission.

(8) An owner, lienholder or interested person may be

represented by an attorney or other person of their choice.

(9) There shall be no rebuttal allowed except that the Board of County Commissioners may recall any witness for further testimony.

(10) The Board of County Commissioners may, by resolution, establish such rules relating to the conduct of a hearing in order to promote the efficiency of the hearing; provided that such rules are consistent with this section.

(11) The Board of County Commissioners may continue the hearing from time to time upon verbal notice at the time set out in the notice, giving a set date, time and place for the continued hearing.

180.450 Order. Any Order entered by the Board of County Commissioners shall be served by first class mail upon the tax collector and any person who has appeared in the hearing provided for in this Chapter within 2 working days of entry of such Order. The Order shall be effective after the expiration of 30 days from the date of the Order, at which time the tax collector shall deed the property to Klamath County.

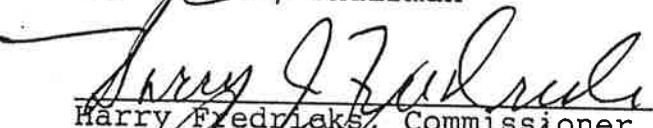
180.800 Appeal. An appeal from the Order entered pursuant to KCC 180.450 shall be taken through the Writ of Review process as set out in ORS 34.010 et seq.

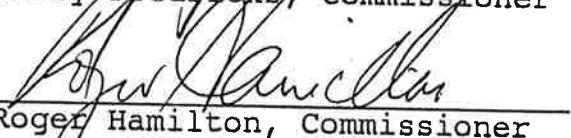
2. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Dated this 12th day of Sept., 1989.

BOARD OF COUNTY COMMISSIONERS


Ted Lindow, Chairman


Harry Friedrichs, Commissioner


Roger Hamilton, Commissioner

APPROVED AS TO FORM:


Michael L. Spencer, County Counsel