



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of September 13, 2008**

DATE: September 4, 2008

SUBJECT: Declaration of Blight and Plan for Repair, Demolition or Other Disposition: "C-O-1.0" Commercial Office Business and Apartment Districts, 4- story, Mixed-Use Residential Structure, premises known as 3800 Lee Highway. (RPC #06-026-052)

C.M. RECOMMENDATION:

Defer action on declaring the property at 3800 Lee Highway to be blighted as defined in Section 29-12.A of the Arlington County Code and approving the County Manager's Plan to demolish the four-story wood framed superstructure down to the concrete first floor, to construct a weatherproof roof or cap over the first floor, with appropriate stormwater management provisions, to remove debris and miscellaneous items, and secure entry to the premises to prevent illegal dumping and storage and authorizing the County Manager to carry out the plan, to the December 13, 2008, County Board meeting

Authorize the County Attorney to institute all necessary legal action to compel compliance with the order of Building Official and to recover any costs incurred by the County in doing so.

DISCUSSION: In November 2007, pursuant to the Building Code, the County's Building Official posted the building as unsafe and ordered the owner, the Brompton's at Cherrydale LLC, to either demolish or repair the building within 60 days of the receipt of the notice. A notice was issued to the owner of record, and a corrective action plan was ordered to be submitted by February 14, 2008. The owner filed an appeal before the Building Code Board of Appeals. That appeal hearing was held on March 19, 2008. The Appeals Board upheld the decision of the Building Official but with the modification to allow Bromptons at Cherrydale LLC an additional 120 days to begin the demolition work. This time frame expired on July 19, 2008. The owner did not commence demolition by that date. As a result, the County Building Official requested that the County Attorney pursue legal action to compel compliance, as prescribed by the Virginia Uniform Statewide Building Code. This step is appropriate before acting on the blight declaration.

County Manager: _____

County Attorney: _____

Staff: Shahriar Amiri, CBO, Chief Building Official, CPHD

If for some reason legal action does not result in the repair or removal of the structure, a blight declaration could be pursued. Under blight declaration, the County could abate the blight by demolishing the structure itself. Firm costs cannot be provided prior to completing the demolition and site preservation specifications and securing a demolition contractor; County staff's preliminary estimate is \$600,000 to \$900,000 for design and demolition. The County would have to pay for the demolition, and it would take several months to achieve. The County would then place a lien on the property to recover the cost for abating the blight. The lien authorized by the Code would be filed in the Circuit Court and would be subordinate to any prior liens of record. The County may recover its costs from the owner of record of the property at such time as the property is sold or disposed of by such owner. However, the County lien is secondary to any prior liens, which appear to amount to a substantial percentage of the value of the property, and there is no assurance that the County would be able to recover the monies used to demolish the blighted property. It is critical that the County exhaust all other options for securing repair or demolition before expending the tax payers' monies, which potentially could not be recovered.

Before resorting to blight declaration, the County should pursue court action to compel compliance with the Building Official's order to repair or demolish. If the court was to order demolition and the owner did not comply, the County could repair or demolish the structure itself and place a lien on the property through this mechanism. The significant advantage of this option is that the County's lien in this case would have precedence over other liens and the County would be more likely to be reimbursed for the cost of the repair or demolition.

CONCLUSION: Therefore, it is recommended that the County Board not act on the blight declaration at this time and defer it to the December 13, 2008, meeting, and that the County Board authorize the County Attorney to initiate all necessary legal action to bring the building into compliance with the Building Code and to recover the County's costs in doing so. A court order to the owner to comply with the Building Official's order and, if necessary, the subsequent County repair or demolition of the structure, the costs of which would be secured by a first lien position, is preferable to expending County funds that may not be recoverable under the blight process.