



**AD HOC COMMITTEE ON RENTAL AND
LAND CONTRACT HOUSING CONDITIONS
Friday, October 28, 2016 @ 1:00 p.m.
Council Conference Room**

The meeting was called to order at 1:00 p.m.

Councilmember Kathie Dunbar, Chair
Councilmember Judi Brown Clarke, Member –left at 2:47 p.m.
Councilmember Tina Houghton, Member- excused
Councilmember Carol Wood, Member.

Others Present:

Sherrie Boak, Council Office Manager
Billie O'Berry, Assistant City Attorney
Elaine Womboldt
Gary Calkins
Richard Williams
Eric Schertzing, Ingham County Treasurer
Darren Carter, City Assessor
Robin Wright, City Assessor

Minutes

Minutes will be addressed at the next meeting.

DISCUSSION

Land Contract Process and Registration Process

Mr. Schertzing distributed brochures and booklets from his office on "A Guide to Land Contracts". Council Member Brown Clarke noted that after her review most of the discussion of this committee was addressed in it. Council Member Dunbar asked Mr. Schertzing how this will change the situation. Mr. Schertzing noted that they need legislation to require land contracts to be recorded, currently they only get what is recorded and there are few ways to find out what isn't. Council Member Dunbar pointed out that the City has never had an ordinance that requires it to be recorded at that city. Council Member Wood pointed out that Code Compliance considers it a rental if there is no land contract filed. In that case they are trying to inspect rentals. Ms. O'Berry added to the conversation clarifying that land contract grantors stand in place of a bank. The issue the City sees is that people said it was a land contract, when it was actually a rental agreement. In those cases if there are no payments then the owner tells the buyers to move. It was also noted that Code Compliance has a concern because they are not recording the land contract in its entirety but under the State Statute they only have to record a

memorandum. Ms. O'Berry could not cite the statute in its exact wording. Council Member Dunbar asked Law if the Committee could craft an ordinance that requires them to be recorded in the City and dictate the type of instrument they record. Ms. O'Berry stated she could look at the option and what instrument they can require. It could be beyond the City authority and Mr. Schertzing added it could contradict State law, because the State only requires a memorandum. Council Member Dunbar asked if not required by the State, can the City still require. Ms. O'Berry stated that the City has to have the authority to enact the ordinance so she would have to refer back to the Charter and confirm it addresses health, safety and welfare. Council Member Brown Clarke asked if by not saying it is a rental they can then loop the land contract since it is an exchange of finances, and therefore the land contract aligns closer to a rental instead of aligning with a sale. Mr. Williams told the Committee that someone who owns a land contract can also rent it, and that is very common. Council Member Dunbar pointed out that if it is recorded as a land contract is the excuse they are using for no inspection. Council Member Wood added that if it is determined that the owner is not living there, then they can inspect because it is deemed a rental. Mr. Calkins stated his opinion that he believed Code Compliance was looking through records for non-homestead and targeting those for rental.

Council Member Dunbar asked if there is any benefit to record it in the City. Mr. Schertzing confirmed the memorandum does accomplish what is required, but behind the memorandum is not the true land contract agreement. The memorandum cloaks the terms. Council Member Dunbar asked what they are looking for at the State level, if recording of an instrument is mandatory, and Mr. Schertzing confirmed. Council Member Dunbar then asked for an opinion on what can be done at the City. Mr. Schertzing stated they could be blocked with options because the State says you only have to record the memorandum. Council Member Dunbar then asked Law if the City could require more. Ms. O'Berry stated that currently through the rental program they could enact an ordinance that states all land contracts have to be recorded at the Register of Deeds, which goes back State law. However based on the Statute currently, if you record memorandum, you have done everything you need to do. Council Member Wood asked if it could be changed for rentals in the Ordinance to note state memorandum, but they have to formally register the instrument or change the status of the property. Ms. O'Berry stated it would have to be consistent with State law, but the State says "memorandum" or contract, so if the City makes the changes to state "contract" that is contrary to State law. Ms. O'Berry noted that the Code Compliance ordinance states that the burden is on the property owner to prove that it is not a rental. To do this they have to provide a property transfer or land contract recorded memorandum. She noted the key word is "or". Council Member Dunbar asked if Committee could remove "memorandum" from that phrase. Ms. O'Berry stated it would need to expand the detail and they need to look into the legal form from that the State allows. Mr. Schertzing added that the details could be broad, and could state that welfare be defined to have economic welfare, if they do that then they can see the terms of the land contract. Council Member Dunbar suggested writing the earlier proposed ordinance and put in it that all the things that contribute to this requirement are being an economic welfare issue.

There was a question as to why people do not list the sale price or want the sale price listed. Mr. Schertzing noted that it is guided by the legislature, and with no sale price there is no money interest so the Assessor is clueless on the value. Council Member Dunbar asked if the City can require it. Ms. O'Berry stated there are no legal bases to, and the reason for the State statute has to do with recording of ownership, not disclosing the terms of the sale or value. Council Member Brown Clarke acknowledge it appeared the City's hands were tied with the State, and know there is new information out there now, is it better to wait. Also the question was asked how many land contracts are there. Mr. Schertzing stated that there is roughly 100/yr. in the City, County wide there are 500, but the majority of those are vacant land. Council Member

Brown Clarke asked what the Committee considered for addressing the issue at the local level and focus on the roughly 200 properties of violators. Mr. Williams suggested creating a penalty. Mr. Schertzing asked by Code Compliance does not require land contracts to be placed on file. Ms. O'Berry referred back to the current ordinance that states "or". Council Member Dunbar suggested changing that ordinance but that would only address rentals. They could state they have to register and record the entire land contract. Ms. O'Berry stated they cannot require it be recorded but could require they provide the entire document to the City, stating that if they do not want it registered as a rental, they should prove it. Instead of "or" in that statement they could put the word "and".

Mr. Carter and Ms. Wright from the Assessor office arrived and outlined the process the Assessor's office has for a land contract. Ms. Wright distributed a copy of a letter that the Assessor sends out when a property transfer affidavit is filed and it notes the sale was land contract. The language in the letter mirrors the ordinance. Council Member Dunbar asked if the ordinance is changed, can Assessing ask for a transfer affidavit and recorded land contract. Ms. O'Berry stated she would have to check if both items can be requested, stating again currently it states memorandum "or" land contract. Council Member Dunbar asked if they could change it and require the land contract as part of the City policy, and it would not have to be recorded. Mr. Schertzing asked if a document is required to be notarized then they can check the land contract.

Council Member Wood asked how the Assessor evaluates the value. Mr. Carter stated if they question the amount noted on the document they can deny it, then the buyer has to go to the State and prove it. The Assessor cannot raise the assessment because they paid more money than what the Assessor thinks they should have. On land contracts if there is no price, the State says the Assessor has the right to ask for it.

Council Member Dunbar asked Law if the item can be addressed in two places, one in Code Compliance and one in the general City Ordinances. The suggestion would be remove "or" in the code language (Chapter 1460) to demonstrate no rental, then remove "property transfer" and "register of deeds".

The Committee briefly discussed the upcoming Council meeting options to address the adoption of the ordinance change. It was the goal of the Committee to introduce and set a public hearing on November 14, 2016, then have the hearing on November 28th with adoption on December 12, 2016.

Ms. O'Berry referred back to the early statement and question why the need to remove "Register of Deeds". Council Member Dunbar clarified that the Register of Deeds does not require the land contract be recorded in its entirety, but the City wants to see the land contract and property transfer affidavit. The goal is to make sure people who get land contracts are not getting punished. Under Section 1460.44 (e) it should be amended to state they have 15 days of the change to provide a copy of the land contract in its entirety which has been recorded with the Register of Deeds and a property transfer affidavit filed with the City Assessor. Council Member Brown Clarke suggested using the final language that Law believes would be upheld.

The Committee set the next meeting for Friday, November 4, 2016 @ 2:00 p.m.

Council Member Dunbar reminded the group that once this amendment to the ordinance is made, the City will no longer accept the memorandum, but we will require the buyers to record the land contract in its entirety at the Register of Deeds. Once Code Compliance denies the

rental registration due to unrecorded land contract in its entirety, they will send a memo to the Assessor telling them it was denied, and the in turn once denied, and then the owner cannot file a principal property exemption. Mr. Schertzing informed the Committee that Assessing has to grant it under State Law, but once they receive evidence it was not accurate information they can audit it and deny the principal property tax exemption.

ADJOURN

Adjourn at 3:14 p.m.

Submitted by,

Sherrie Boak, Recording Secretary

Lansing City Council

Approved by the Committee on December 7, 2016