



AGENDA
AD HOC COMMITTEE ON RENTAL AND
LAND CONTRACT HOUSING CONDITIONS
Friday, November 4, 2016 @ 2:00 p.m.
Council Conference Room, 10th Floor

Councilmember Kathie Dunbar, Chair
Councilmember Judi Brown Clarke, Member
Councilmember Tina Houghton, Member
Councilmember Carol Wood, Member

1. Call to Order
2. Minutes:
 - March 24, 2016
 - October 28, 2016
3. Public Comment
4. Discussion & Action:
 - A. RESOLUTION – Introduction & Set Public Hearing
Amendment to City Ordinance Chapter 1460
5. Other
6. Adjourn



**AD HOC COMMITTEE ON RENTAL AND
LAND CONTRACT HOUSING CONDITIONS
Thursday, March 24, 2016 @ 8:30 a.m.**

Council Member Brown Clarke called the meeting to order at 8:39 a.m.

Councilmember Kathie Dunbar, Chair-arrived at 8:42 a.m.
Councilmember Judi Brown Clarke, Member –left at 9:30 a.m.
Councilmember Tina Houghton, Member
Councilmember Carol Wood, Member.

Others Present:

Sherrie Boak, Council Office Manager
Scott Sanford, Code Compliance
Mark Dotson, Deputy City Attorney
Teresa Bowers, Assessing
Robin Wright, Assessing
Eric Schertzing, Ingham County Treasurer
Derrick Quinney, Ingham County Register of Deeds
Angie Bennett, City Finance Director
Gary Caulkins

Minutes

MOTION BY COUNCIL MEMBER HOUGHTON TO APPROVE THE MINUTES FROM OCTOBER 2, 2015 AS PRESENTED. MOTION CARRIED 3-0.

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM NOVEMBER 5, 2015 AS PRESENTED. MOTION CARRIED 3-0.

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM DECEMBER 14, 2015 AS PRESENTED. MOTION CARRIED 3-0.

MOTION BY COUNCIL MEMBER HOUGHTON TO APPROVE THE MINUTES FROM JANUARY 14, 2016 AS PRESENTED. MOTION CARRIED 3-0.

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM FEBRUARY 11, 2016 AS PRESENTED. MOTION CARRIED 3-0.

DISCUSSION

Multi-Unit Maintenance & Facility Operations

No discussion.

Land Contract Process and Registration Process

The discussion continued on processes taken by the Ingham County Register of Deeds and City Assessing on Land Contracts. Ms. Bowers started by stating Assessing informs buyers they should register their land contract, however they aren't required and they do accept unregistered deeds. Ms. Bennett confirmed from the last meeting that the City does download information from the County Register of Deeds every two weeks. Mr. Quinney reiterated what was stated when the Deputy Register presented to the Committee, which was that Michigan does not require it to be recorded but if they do, there are guidelines they do have to follow. If the buyer seeks advice or guidance they are encouraged to seek legal consultation to what covers them in the provisions of the document they want to record. The Register of Deeds does not look at the content of the document; it is record the submission itself. Council Member Brown Clarke asked who can present the document, and what identification is needed to ensure they can present it. Mr. Quinney stated that if it is notarized and they have the ID's of the parties. Mr. Schertzing added to the conversation stating that there could be multiple land contracts, and Mr. Quinney agreed noting that it is the sequence they are recorded in that is the priority. Council Member Dunbar asked if anyone at the Register of Deeds checks the land contract or document before the buyer leaves to make sure there are no other land contracts on file. Mr. Quinney stated it could take 2-3 days before it is recorded. And then if there are issues the buyer is referred to seek their own legal consultation. It was stated again, the Register of Deeds only records, does not provide advice. Mr. Schertzing reminded the Committee that the difference between a land contract vs a mortgage is consumer protections on mortgages. Council Member Brown Clarke asked if the County had a way to flag the property for reconciliation. Mr. Quinney stated no. Council Members acknowledged they are aware no jurisdiction does because Michigan is a non-recording state. Mr. Quinney agreed and added that if they record something it does have to meet the required recordable form.

The Committee then discussed what occurs at the Assessing office, noting that they do not receive any information when a land contract is in default. They do have a field that notes LC (Land Contract) WD (Warranty Deed), etc. Also, since they do not know when a land contract goes into default and new land contract is signed immediately it is best for them to use 0% homestead exempt, then once they turn in paperwork for 100%. Ms. Wright noted they have been told by the State it is better to deny then to give.

Council Member Houghton went back to the comment by Ms. Wright about the field where it is noted land contract and warranty deed, and if that can be required to be completed. Ms. Wright stated she would have to inquire with the software provider because the program is purchased and updated from them, but not sure if they would customize. Ms. Wright did admit that in the notes area staff can see they can make notes of "unrecorded or no document". Council Member Wood stated she would provide examples to Assessing for interpretation to the Committee.

Council Member Dunbar asked if someone goes to county and not City how is information referred. Ms. Wright noted they do not have the information until they download the deeds. The City is current/live and the County tax side is the prior year. Mr. Schertzing added that if it is a land contract recorded at the Register of Deeds, which is recommended it has to have a tax certificate showing there are no outstanding taxes owed.

Mr. Caulkins added to the conversation stating it is not unusual to have multi land contracts on property. Ms. Wright informed him that BSA does not have room for both land contracts.

Council Member Brown Clarke encouraged the Committee to work on a tool kit to put in the hands of people signing land contract. Mr. Sanford stated that as part of housing, we require them to file with the County or file a transfer affidavit with the City

Mr. Schertzing informed the Committee that Clark Hill is currently working with the County on a County wide ordinance that would cover every municipality in the County that would require them to record the land contract at the Register of Deeds if they want a principal residential exemption. If the Ad Hoc Committee and Council could endorse that, then Mr. Schertzing stated he could take that to the County board to pass a County wide ordinance. Council Member Wood encouraged Mr. Schertzing to speak to Eaton County and the southwest corner of the City to make sure the whole City is taken care of.

Council Member Dunbar handed out the draft County brochure and asked for recommendations at the next meeting and then the Committee will send to council. Council Member Brown Clarke noted there appeared to be a lot of text, and it should be designed with less text and include check boxes so they can determine what they have done as buyers. The Committee was encouraged to forward suggestions to Council staff before the next meeting and they will then provide to the County.

Council Member Wood noted that by the next meeting she will accumulate examples for Assessing so they can pull them up and explain.

Council Member Houghton asked Mr. Quinney if his office has an option for a computer for the public to see, and if Council puts something together would the Register of Deeds hand it out. Mr. Quinney reminded the Committee that they encourage residents to seek legal counsel, and the provide legal resources, information, if we see something questionable, offer legal aid, 60 plus, legal law options.

Council Member Dunbar set the next meeting for April 12th, 2016 at 8:30 a.m. in the 3rd Floor Conference Room, and Mr. Schertzing was invited to attend.

Council Member Houghton asked what else can be down at the County, and Mr. Schertzing confirmed that the buyer would have to file the entire land contract to get the exemption, and Council Member Wood added that if the City changes the City Ordinance to requires they have to file the land contract not the memorandum to be a rental it would help.

ADJOURN

Adjourn at 9:41 a.m.

Submitted by,

Sherrie Boak, Recording Secretary

Lansing City Council

Approved by the Committee on _____



**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 _____

Current Ordinance as Adopted

- **RENTAL PROPERTIES**

- **1460.44. - Registry.**

(e)

Transfer of Ownership. If there is a transfer of ownership for any rental dwelling or unit required to be registered under this section, the registered owner or agent shall, within 15 days of such transfer or change, notify, in writing, the Office of Code Compliance thereof and provide the name(s) and address of the new owner(s). If the registered owner or agent sells the property on a land contract, the registered owner or agent shall provide a copy of that land contract which has been recorded with the County Register of Deeds or a property transfer affidavit, to the Office of Code Compliance and the City Assessor's office within 15 days of such change. The registered owner or agent shall provide such information as may be required by the Office of Code Compliance.

INTRODUCTION OF ORDINANCE

Council Member Dunbar introduced:

An Ordinance of the City of Lansing, Michigan, to amend Chapter 1460 to the Lansing Codified Ordinances by _____

The Ordinance is referred to the AD HOC on Rental and Land Contract Housing

RESOLUTION SETTING PUBLIC HEARING BY CITY COUNCIL

RESOLVED BY THE CITY COUNCIL, CITY OF LANSING, that a public hearing be set for November 28, 2016 at 7:00 p.m. in the City Council Chambers, 10th Floor Lansing City Hall, 124 W. Michigan Ave., Lansing, MI for the purpose of considering an ordinance of the City of Lansing, Michigan, to amend Chapter 1460 to the Lansing Codified Ordinances by _____

Interested Persons are invited to attend this Public Hearing



Virg Bernero, Mayor

**CITY OF LANSING
ASSESSING DEPARTMENT**

Sharon L Frischman, Assessor
3rd Floor, City Hall
124 W. Michigan Ave.
Lansing, MI 48933
517-483-7624

October 28, 2016

Re: Property Transfer Affidavit for [REDACTED]

We have received a property transfer affidavit that indicates that a land contract sale has occurred. Please submit a copy of the land contractor or memorandum of the land contract according to our policy:

Property Transfer affidavits must be accompanied by a land contract or memorandum of a land contract. The land contract does not need to be recorded; however, signatures of the buyer and seller must be notarized.¹

A transfer of ownership will not be recognized without the transfer affidavit and notarized land contract or memorandum of land contract.²

A principal residence exemption claim by the buyer will be denied if these documents are not filed with the Assessing office.

Thank you,

City Assessor Office

[REDACTED]

¹ The property transfer affidavit only requires the signature of the buyer, therefore, to insure that the seller or previous owner is aware that a transfer of ownership has been claimed; notarized signatures from both parties are required. This will avoid any claims from a previous owner that they were not aware of the transfer affidavit.

² A transfer of ownership via land contract is recognized as a legitimate transfer of ownership; however, the transfer affidavit by itself does not legally transfer ownership. The transfer affidavit is required for all transfers of ownership as notice to the Assessor that a transfer has occurred; it is not the instrument that actually transfers ownership.

14th

28th

12th

submitted @mtg