

**Office of the City Attorney
City of Greensboro**



January 26, 2015

TO: Tom Carruthers, City Attorney

FROM: Terri Jones, Assistant City Attorney

SUBJECT: Code Enforcement – Minimum Housing Civil Penalties

The City of Greensboro has a long standing policy of protecting and improving housing for low and moderate income individuals. The goal of the Minimum Housing program and ordinance (Chapter 11) is to stabilize neighborhoods to prevent blight from condemned residential and non-residential buildings. The purpose of Chapter 11 as stated in Section 11-4 is “to arrest, remedy, and prevent the decay and deterioration of places of habitation and to eliminate blighted neighborhoods.” This in turn helps to maintain quality low and affordable housing stock in the City.

When a single family dwelling has violations of the Minimum Housing Code and has been condemned, the property owner is issued a \$200 civil penalty and the case is referred to the Minimum Housing Standards Commission for an order to repair or demolish the dwelling. By policy, the property owner of a single family dwelling is not issued \$75 daily fines pending the repair or demolition of the dwelling.

When a building contains multiple residential units, the property owner is issued a \$200 civil penalty for each unit that has violations of the Minimum Housing Code and has been condemned. The unit may not be rented until it is in compliance with the Housing Code. A multi-family residential building cannot be demolished unless all of the units are also condemned, because demolition would result in elimination of compliant units and possible displacement of tenants. As a result, the non-compliant units within a multi-family building will be assessed \$75 daily fines per unit. This may result in the accrual of additional fines in the amount of \$2100 to \$2325 per month per non-compliant unit.

The civil penalties are an effective enforcement tool with respect to individuals and single family properties. It is less effective with respect to multi-family residential buildings which are often owned by corporations, limited liability companies, and trusts. The Minimum Housing Code mandates the imposition of daily fines which has an unintended consequence for multi-family residential buildings. Suing these property owners to collect civil penalties will likely result in judgments. This lien is a non-priority lien that may be discharged in bankruptcy. The judgments may be collected by attaching liens to the property; however, additional liens on the property

reduce the likelihood that the owner can obtain loans to renovate or rehabilitate the property. As a result, the units remain boarded up which reduces the amount of low and affordable housing units in the City. In addition, because civil penalties are personal in nature, the owners could file for bankruptcy and have the judgments discharged which means that the City would never collect the outstanding fines.

Currently, the top four owners of multi-unit buildings account for almost 97% of the civil penalties issued for minimum housing violations. These owners continue to amass daily civil penalties without demonstrating sufficient efforts to bring the units into compliance. In addition, these owners face other liens on the properties such as unpaid taxes and water bills or may be facing foreclosure. The Department of Neighborhood Development is recommending that Chapter 11 be amended to allow the Director and the City Attorney authority to waive or reduce civil penalties provided the unit or dwelling is brought into compliance. In addition, the Department is recommending that daily fines be reduced or changed to monthly fines. This will help to prevent the accumulation of large amounts of daily fines from becoming a deterrent to bringing units into compliance as well as providing an incentive for the owners of single family dwellings to expend money on the repairs rather than the fines and prevent the demolition of otherwise salvageable dwellings.