

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 702

An Act to amend and reenact §§ 36-49.1:1 and 36-105 of the Code of Virginia, relating to spot blight abatement.

[H 2609]

Approved March 27, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-49.1:1 and 36-105 of the Code of Virginia are amended and reenacted as follows:

§ 36-49.1:1. Spot blight abatement authorized; procedure.

A. Notwithstanding any other provision of this article, an authority, *or any county, city or town which does not have an authority*, shall have the power to acquire *or repair* any blighted property, as defined in § 36-49 of this title, outside of a conservation or redevelopment area, by exercise of the powers of eminent domain provided in Title 25, and, further, shall have the power to hold, clear, *repair*, manage or dispose of such property for purposes consistent with this title. This power shall be exercised only in accordance with the procedures set forth in this section.

B. The chief executive or designated agency or authority of the county, city, or town shall make a preliminary determination that a ~~vacant~~ property is blighted *in accordance with this article*. It shall notify the owner, specifying the reasons why the property is considered blighted. The owner shall have thirty days within which to respond with a plan to cure the blight within a reasonable time.

C. If the owner fails to respond within the thirty-day period with a plan that is acceptable to the *chief executive of the agency* ~~or~~ authority *or locality*, the agency ~~or~~ authority *or locality* (i) may request the local planning commission to conduct a public hearing and make findings and recommendations that shall be reported to the governing body of the county, city, or town concerning the *repair or other* disposition of the property in question and (ii) in the event a public hearing is scheduled, shall prepare a plan for the *repair or other* disposition of the property.

D. Not less than three weeks prior to the date of the public hearing before the planning commission, the commission shall provide by regular and certified mail, notice of such hearing to (i) the owner of the blighted property or the agent designated by him for receipt of service of notices concerning the payment of real estate taxes within the locality; (ii) the abutting property owners in each direction, including those property owners immediately across the street or road from the property; and (iii) the representative neighborhood association, if any, for the immediate area. The notice shall include the plan for the intended *repair or other* disposition of the property ~~by the authority~~. The notice of the public hearing shall be published at least twice, with not less than six days elapsing between the first and second publication in a newspaper published or having general circulation in the county, city, or town in which the property is located. The notice also shall be posted on the property. The notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than six days nor more than twenty-one days after the second publication.

E. The planning commission shall determine whether:

1. The owner has failed to cure the blight or present a reasonable plan to do so;
2. The property is ~~vacant~~ and blighted;
3. The plan ~~of the authority~~ for the *repair or other* disposition of the property is in accordance with the locally adopted comprehensive plan, zoning ordinances, and other applicable land use regulations; and

4. The property is located within an area listed on the National Register of Historic Places. In such instances, the planning commission shall consult with the locally established architectural review board, if any, regarding the proposed *repair or other* disposition of the property by the authority.

F. The planning commission shall report its findings and recommendations concerning the property to the governing body. The governing body, upon receipt of such findings and recommendations, may, after an advertised public hearing, affirm, modify, or reject the planning commission's findings and recommendations. If the ~~acquisition~~ *repair or other disposition* of the property is approved, the authority, *agency or locality* may carry out the approved plan to *repair or* acquire and dispose of the property in accordance with the approved plan, the provisions of this section, and applicable law.

G. *Notwithstanding the provisions of this section, unless otherwise provided for in Title 36, if the blighted property is occupied for personal residential purposes, the governing body, in approving the plan, shall not allow for an acquisition of such property if it would result in a displacement of the person or persons living in the premises.*

~~G.~~ H. The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by § 15.1-238 or any other provision of law.

§ 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings.

Enforcement of the Building Code shall be the responsibility of the local building department. There shall be established within each local building department a local board of Building Code appeals whose composition, duties and responsibilities shall be prescribed in the Building Code. Appeals from the local building department concerning application of the Building Code or refusal to grant a modification to the provisions of the Building Code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure shall first lie to the local board of Building Code appeals. No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals. Whenever a county or a municipality does not have such a building department or board of Building Code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the Department for such enforcement and appeals resulting therefrom. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the Building Code; however, where the town does not elect to administer and enforce the Building Code, the county in which the town is situated shall administer and enforce the Building Code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the Building Code for that portion of the town which is situated within their respective boundaries. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals.

Any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$1,000, however, the inspection may, in the discretion of the inspecting authority, be waived. The building official shall coordinate all reports of inspections for compliance with the Building Code, with inspections of fire and health officials delegated such authority, prior to issuance of an occupancy permit.

The local governing body may also inspect and enforce the Building Code for existing buildings and structures, whether occupied or not, including such regulations for elevators. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

The local governing body may, upon an affirmative finding of the need to protect the public health, safety and welfare, require the issuance of certificates of compliance with current building regulations for existing residential buildings located in conservation and rehabilitation districts designated by the local governing body, *or in other areas designated as blighted pursuant to § 36-49.1:1*, after inspections of such buildings upon termination of the rental tenancies or when such rental property is sold. Such certificate of compliance shall be issued in accordance with the administrative provisions of the Uniform Statewide Building Code.