CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 17 (2021)

A BILL FOR AN ORDINANCE

RELATING TO THE HOUSING CODE.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The purpose of this ordinance is to strengthen the mechanisms for enforcement of the Housing Code.

SECTION 2. Section 27-10.5, Revised Ordinances of Honolulu 1990 ("Enforcement—Penalty"), is amended by amending subsections (c) and (d) to read as follows:

"(c) Administrative Enforcement. In lieu of or in addition to enforcement pursuant to subsection (b), if the building official determines that any person is not complying with a notice of violation, the building official may have the responsible person or persons served with a notice of order.

(1) Contents of Order.

(A) The order may require the responsible person or persons to do any or all of the following:

(i) Correct the violation within the time specified in the order;

(ii) Pay a civil fine not to exceed $1,000.00 in the manner, at the place and before the date specified in the order;

(iii) Pay a civil fine not to exceed $1,000.00 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.

(B) The order must advise the responsible person or persons that the fines, if unpaid within the prescribed time period, can be added to specified fees, taxes, or charges collected by the city, and can be recorded as an administrative lien on all real property owned by the responsible person or persons.

(C) The order must advise the responsible person or persons that the order becomes final 30 calendar days after the date of its delivery. The order must also advise that the building official's action may be appealed to the building board of appeals.

(2) Service of Notices of Order. A notice of order issued pursuant to this section must be served upon the responsible person or persons either personally or by certified mail. However, if the whereabouts of one or more responsible persons is unknown and the same cannot be ascertained by the building official in the exercise of reasonable diligence, and the building official provides an affidavit to that effect, a notice of order may be served by publishing the same in accordance with HRS Section 1-28.5, or if that provision no longer applies, by publication once each week for two consecutive weeks in a newspaper of general circulation in the city. A copy of the notice of order must also be posted in a conspicuous place on the property affected by the complaint or order and may be recorded in the state bureau of conveyances or the land court. If so recorded, a notice of order shall have the same force and effect as other lis pendens or other legal notices provided by law.

(3) Effect of Order; Right to Appeal. The order issued by the building official under this section becomes final 30 calendar days after the date of the delivery of the order. The responsible person or persons may appeal the order to the building board of appeals as provided by the building code. The appeal must be received in writing on or before the date the order becomes final. However, an appeal to the building board of appeals does not stay any provision of the order.

(4) Addition of Unpaid Civil Fines to Fees or Charges Collected by the City; Administrative Liens.

(A) When civil fines imposed pursuant to this subsection remain unpaid after all rights to administrative appeal or judicial review have been exhausted, and the fines either:

(i) Exceed $150,000; or

(ii) Have been outstanding for more than five years;

the building official shall, pursuant to Chapter 1, Article 19, and rules adopted by the building official, add the civil fines to the fees and charges specified in paragraph (B), and record the unpaid civil fines as a lien in favor of the city on all real property owned by the responsible person or persons.

(B) The building official shall, at a minimum, add the civil fines to the following fees and charges collected by the city, if applicable to the responsible person or persons:

(i) All fees collected by the department of planning and permitting, unless the fees are for permits, applications, or approvals for work necessary to correct the violation that is the subject of the notice of order;

(ii) Motor vehicle registration fee and vehicle weight tax;

(iii) Motor vehicle transfer of ownership fee;

(iv) Driver's license renewal fee;

(v) Business license renewal fee;

(vi) Liquor license and renewal fees;

(vii) Refuse collection fee; and

(viii) Refuse disposal fee.

(d) Judicial Enforcement.

(1) Injunctive relief. The corporation counsel is hereby authorized to bring an action to enjoin any public nuisance, as defined by this code, at the request of the building official. An injunction sought by the corporation counsel may request any appropriate relief, including but not limited to an order requiring a responsible person to remove, demolish, destroy or otherwise abate a public nuisance or city authorization to enter private property and seize, remove, demolish, destroy, or otherwise abate a public nuisance.

(2) The corporation counsel may seek an injunction from a court under [~~subsection (a)~~] subdivision (1) if it appears that:

(A) The public nuisance complained of was cited by the building official pursuant to a notice of violation and notice of order and remains unabated after all rights to appeal the notice of order have exhausted or expired; or

(B) [It appears that a] A building, use of real property, or conditions on real property governed by this code present an unreasonable risk of harm to the public health, safety, or welfare and the public interests favor the removal of such unsafe or unsanitary condition over the property owner's interest in maintaining the current use [~~of~~] or condition of the property.

(3) Where the city enters private property to abate a public nuisance, all costs of correction, including legal costs and attorney's fees, may be reduced to a judgment or recorded as a lien against the property on which such abatement occurs. A lien recorded against the property that is registered in the bureau of conveyances or land court is enforceable in the same manner as any mortgage or other lien on real property. The interest secured by the city lien is senior to any lien recorded or registered after the city lien is recorded and subordinate to any lien recorded prior to the city lien.

(4) Any person aggrieved by a private nuisance may bring a civil action for damages [~~or~~], for injunctive relief to enjoin such private nuisance[-], or for both damages and injunctive relief."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not inciude the brackets, the material that has been bracketed and stricken, or the underscoring.

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SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

Tommy Waters

DATE OF INTRODUCTION:

MAR 23 2021

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu