

April 27, 1966

MEMORANDUM:

To: Mr. William R. Wofford

From: Dan Sweat

I notice with great interest the adoption of the Resolution authorizing study of the 1965 Housing Act provision of Demolition of Unsound Structures.

This program offers real assistance for strong code enforcement, and coupled with the Code Enforcements Grants provisions under the same act, can be a major tool in accelerating the elimination of unsound housing.

Such programs are of major concern to this office and I will be glad to assist your department and the Planning Department in the development of a project application for the City.

DS:fy

cc: Mr. Earl Landers
Mr. Collier Gladin

AN ORDINANCE

BY: THE BUILDING COMMITTEE

TO AMEND THE ATLANTA HOUSING CODE SO AS TO PROVIDE "IN REM" PROCEEDINGS AGAINST DWELLINGS, BUILDINGS OR STRUCTURES UNFIT FOR HUMAN HABITATION OR OCCUPANCY.

WHEREAS, there is found to exist dwellings and other buildings and structures in the City of Atlanta which are unfit for human habitation or use due to dilapidation and defects increasing the hazards of fire, accident or other calamities, or due to other conditions rendering such structures unsafe; and

WHEREAS, such dwellings, buildings or structures in such conditions are inimical to the welfare, and are dangerous and injurious to the health, safety and morals of the people of this City; and

WHEREAS, a public necessity exists for the vacating, closing and removal or demolition of such dwellings, buildings or structures.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF ATLANTA that Chapter 15 of the Code of Ordinances of the City of Atlanta entitled The Atlanta Housing Code (formerly known as Housing Code and Slum Clearance) be and is hereby amended by adding thereto Article III to be entitled "'In Rem' Proceedings against Dwellings, Buildings and Structures unfit for Human Habitation or Occupancy" as follows:

Section 1. The following terms whenever used or referred to in this Ordinance shall have the following respective meanings, unless a different meaning clearly appears from the context:

a. "Dwellings, buildings or structures" shall mean any building or structure or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and

appurtenances belonging thereto or usually enjoyed therewith, and also includes commercial, industrial or business buildings located in or situated immediately contiguous to residential areas which detrimentally affect environmental conditions therein.

b. "Owner" shall mean the holder of the title in fee simple and every mortgagee of record.

c. "Parties in interest" shall mean persons in possession of said property, all individuals, associates and corporations who have interest of record in a dwelling, building or structure, including executors, administrators, guardians and trustees.

d. "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the City of Atlanta, Fulton County or the State of Georgia relating to health, fire, building regulations or to other activities concerning dwellings, buildings or structures in the City of Atlanta.

e. "Enforcement officer" shall mean the building official of the City of Atlanta or his duly authorized agents.

f. "City" shall mean City of Atlanta, Georgia.

Section 2. The primary responsibility and authority for the enforcement of the provisions prescribed by this Ordinance and contained herein shall be vested in the building official of the City or his duly authorized representatives.

Section 3. The enforcement officer is hereby authorized:

a. To investigate and determine which dwellings, buildings or structures in the City is unfit for human habitation or occupancy;

b. To enter upon premises for the purpose of making inspections. Provided, however, that such entry shall be made in such

a manner as to cause the least possible inconvenience to the persons in possession;

c. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this Ordinance;

d. To delegate any of his functions and power under this Ordinance to such officers and agents as he may designate; and

e. To administer oaths, affirmations, examine witnesses and receive evidence.

Section 4. Any dwelling, building or structure which may have any one or more of the defects set forth in Chapter 15, Article II, Section 15-21(b), sub-paragraph (1)-(6) of the Code of Ordinances of the City shall be deemed unfit for human habitation or occupancy.

Section 5. Whenever a request is filed with the enforcement officer by a public authority or by at least five residents of the City charging that any dwelling, building or structure is unfit for human habitation or occupancy or whenever it appears to the enforcement officer on his own motion that any dwelling, building or structure is unfit for human habitation or occupancy, the enforcement officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and/or parties in interest in such dwelling, building or structure, a notice stating therein his findings and that:

a. A hearing will be held before the enforcement officer, or his designated agent, at a place within the City on a day and time certain which shall be not less than ten days nor more than thirty days after the serving of said notice.

b. That the owner and/or parties in interest shall be given the right to file an answer to the notice and to appear in

person, or otherwise, and give testimony at the place and time fixed in the notice; and

c. That the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the enforcement officer.

The enforcement officer, or his duly authorized agent, shall keep and maintain a file on each property against which such notice is issued and keep and enter minutes of the proceedings of each case.

Section 6. If, after such notice and hearing, the enforcement officer determines that the dwelling, building or structure under consideration is unfit for human habitation or occupancy, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner of and/or parties in interest an order stating:

a. (1) That said dwelling, building or structure, which is found to be unfit for human habitation or occupancy, can be repaired, improved or altered at a cost not in excess of 50% of the value of the dwelling, building or structure, exclusive of foundations, after the improvements have been made; and

(2) The remedial action deemed necessary to render said dwelling, building or structure fit for human habitation or occupancy and to comply with the minimum standards set forth in The Atlanta Housing Code; and

(3) A time not less than thirty days nor more than ninety days in which the required remedial action must be undertaken and completed; and

(4) Unless the required action is taken within the time specified, then and thereafter the owner and/or parties in interest shall proceed to clean the premises, vacate and close the dwelling, building or structure and maintain the same in such condition until

the prescribed remedial action is taken; OR

b. (1) That said dwelling, building or structure which is found to be unfit for human habitation or occupancy cannot be repaired, improved or altered at a cost of 50% or more of the value of the dwelling, building or structure, exclusive of foundations, after the improvements have been made; and

(2) That the owner and/or parties in interest shall vacate and remove or demolish such dwelling, building or structure and clean the premises within a period of ninety days from the date of said order.

Section 7. If the owner and/or parties in interest fail to comply with an order to vacate and close the dwelling, building or structure and clean the premises, the enforcement officer may cause such dwelling, building or structure to be cleaned, vacated and closed. The enforcement officer may cause to be posted on the main entrance of any dwelling, building or structure so closed, a placard with the following words:

"This building is unfit for human habitation or commercial, industrial or business use; the use or occupation of this building for human habitation or for commercial, industrial or business use is prohibited and unlawful."

Section 8. Should the owner and/or parties in interest fail to comply with any order to remove or demolish the dwelling, building or structure, the enforcement officer may cause such dwelling, building or structure to be removed or demolished. Provided, however, that the duties of the enforcement officer, set forth in Sections 7 and 8 herein, shall not be exercised until the Board of Aldermen of the City shall have, by Ordinance, ordered the enforcement officer to

proceed to effectuate the purpose of this Ordinance with respect to the particular property or properties which the enforcement officer shall have found to be unfit for human habitation or occupancy, and which property or properties shall be described in the Ordinance.

Section 9. The amount of the cost of such vacating and closing or removal or demolition by the enforcement officer shall be a lien against the real property upon which such cost was incurred. Said lien shall attach to the real property upon the payment of all costs of vacating, closing or demolition or removal by the City and the filing of an itemized statement of the total sum of said cost by the enforcement officer in the Office of the Clerk of the Board of Aldermen of the City on a lien docket maintained by said Clerk for such purposes. If the dwelling, building or structure is removed or demolished by the City, the materials of such dwellings, buildings or structures shall be sold, if possible, and the proceeds of such sale shall be credited against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court of Fulton County by the enforcement officer, shall be secured in such manner as may be directed by such Court, and shall be disbursed by such Court to the persons found to be entitled thereto by final order or decree of such Court.

Section 10. The Municipal Revenue Collector and ex-officio marshal of the City shall enforce the collection of any amount due on such lien for removal or demolition of dwellings, buildings or structures in the following manner:

a. The owner and/or parties in interest shall be allowed to satisfy the amount due on such lien by paying to the Municipal Revenue Collector and ex-officio marshal of the City, within thirty days after the perfection of such lien, a sum of money equal to 25%

of the total amount due and by further paying to said Municipal Revenue Collector and ex-officio marshal of the City the remaining balance due on such lien, together with interest at the rate of 7% per annum, in three equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as hereinabove prescribed;

b. Should the property, upon which such lien is perfected, be sold, transferred or conveyed by the owner and/or parties in interest at any time prior to the termination of the said three year period, then the entire balance due on such lien shall be due and payable to the Municipal Revenue Collector and ex-officio marshal of the City; and

c. Should the amount due on such lien, or any portion thereof, be unpaid after the passage of said three year period, or upon the occurrence of the contingency provided for in paragraph b hereinabove, the Municipal Revenue Collector and ex-officio marshal of the City may enforce the collection of any amount due on such lien for removal or demolition of dwellings, buildings or structures in the same manner as provided in Georgia Laws 1884-85, page 148 (Ga. Code 92-4201) and other applicable statutes, all of which shall be subject to the right of redemption by any person having any right, title or interest in or lien upon said property, all as provided by Georgia Laws 1935, page 466 (Ga. Code 92-4402) and Georgia Laws 1937, page 491, 492 (Ga. Code 92-8301 et seq).

Section 11. Notices or orders issued by the enforcement officer pursuant to this Ordinance shall, in all cases, be served upon persons in possession of said property, owners and parties in interest, and the return of service, signed by the enforcement officer or his agent, or an affidavit of service executed by any citizen of this State, reciting that a copy of such notices or orders was served upon

persons in possession of said property, owners and parties in interest personally, or by leaving such copy at the place of his residence, shall be sufficient evidence as to the service of such person in possession, owners and parties in interest.

b. If any of the owners and parties in interest shall reside out of the City, but within the State of Georgia, service shall be perfected by causing a copy of such notices or orders to be served upon such party or parties by the sheriff or any lawful deputy of the county of the residence of such party or parties, or such service may be made by any citizen and the return of service by such sheriff or lawful deputy, or the affidavit of such citizen, that such party or parties were served, either personally or by leaving a copy of the notices or orders at the residence, shall be conclusive as to such service.

c. Nonresidents of this State shall be served by publishing the notices or orders once each week for two successive weeks in the daily newspaper in which the legal advertisements of the City are carried. The cost of such advertisement shall be disbursed from the General Fund of the City. A copy of such notices or orders shall be posted in a conspicuous place on premises affected by the notices or orders. A copy of such notices or orders shall also be filed on the lis pendens docket in the Office of the Clerk of the Superior Court of Fulton County. Where the address of such nonresidents is known, a copy of such notices or orders shall be mailed to them by registered mail.

d. In the event either the owner or any parties in interest are minors or insane person or persons laboring under disabilities, the guardian or other personal representative of such persons shall be served and if such guardian or personal representative reside outside the City or is a nonresident of the State of Georgia,

he shall be served as hereinbefore provided in such cases. If such minor or insane person or persons laboring under disabilities has no guardian or personal representative, service shall be perfected by serving such minor or insane person personally, or by leaving a copy of said notices or orders at the place of his residence, which shall be sufficient evidence as to the service of such person or persons or in the event such minor or insane person lives out of the City or is a nonresident of the State of Georgia, by serving such minor or insane person by the method herein provided in the case of other persons who live out of the City, or are nonresidents of the State of Georgia, and by serving the Ordinary of Fulton County, who shall stand in the place of and protect the rights of such minor or insane person or appoint a guardian ad litem for such persons.

e. In the event the whereabouts of any owner or parties in interest is unknown and the same cannot be ascertained by the enforcement officer in the exercise of reasonable diligence, the enforcement officer shall make an affidavit to that effect, then the service of such notices or orders upon such persons shall be made in the same manner as provided in subparagraph c above or service may be perfected upon any person, firm or corporation holding itself out as an agent for the party involved.

Section 12. Nothing in this Ordinance shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of Georgia, nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

Section 13. The provisions of this Ordinance are hereby

declared to be severable, and should any provisions hereof be declared unconstitutional, the remaining Sections shall remain in full force and effect.

Section 14. All laws and parts of laws in conflict herewith are hereby repealed.

A RESOLUTION

BY THE BUILDING COMMITTEE

WHEREAS the 1965 Housing Act provides for funds to be obtained through a Federally Assisted Demolition Program whereby the City can obtain two-thirds of the cost involved in demolishing a substandard structure

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOARD OF ALDERMEN of the City of Atlanta that the Building Official and the Planning Department are hereby authorized and directed to study the aforementioned Act and present a program for early action.