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To: House Standing Committee on Local Government

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Re: **HB 2075 – “Abandoned Property Bill”**

My name is Bob Myers and I have been the Newton City Attorney for over 28 years. Prior to transitioning this service to the City of Newton from part-time to full-time around 12 years ago, I previously did legal work for a number of other cities as well, some of which are smaller-sized communities such as Peabody, Hillsboro, Burns and others. This has included a lot of work over the years dealing with issues associated with a variety of property nuisance issues.

Cities of all sizes struggle with the issue of abandoned and dilapidated structures. While many of these problem structures do tend to be residences, the same issues can exist with any number of types of structures. I personally have dealt with these issues involving an abandoned motel and other types of dilapidated commercial buildings, as well as assorted outbuildings and structures which themselves might not qualify as residential or commercial structures.

I am in full support of developing additional tools which cities can use to address these issues, and HB 2075 would provide some needed flexibility in that regard.

In the current draft of HB 2075, I strongly support the inclusion of commercial real estate, as defined, as a proper subject of these types of proceedings, and I certainly support the allowance for a city governing body to commence a proceeding to seek rehabilitation of such properties.

I also want to urge a couple of additional enhancements to this bill.

First, since the original text of the statute was prepared with just residential real estate as its subject, the definition of an organization which is qualified to carry out these rehabilitation activities was defined as “any nonprofit corporation organized under the laws of this state and which has among its purposes the improvement of housing” [emphasis added]. Although the scope would now be expanded to include “commercial real estate,” this definition of a qualified organization hasn’t been changed. I suggest the definition should read “any nonprofit

corporation organized under the laws of this state and which has among its purposes the improvement of housing or commercial real estate.”

Second, I don't think the current language is clear as to whether the “enforcing official” would be an interested party for purpose of the civil action. While the statute requires the enforcing official be given notice of the “intent to file a petition” to seek rehabilitation of such a property, there would be a distinct benefit to the enforcing official being required to be named as an interested party. This would clearly give the enforcing official the right to be heard regarding the adequacy of the rehabilitation plan. This could be accomplished by adding the following emphasized language to Section 2 of the bill, at subsection (b) of K.S.A. 12-1756a, as follows:

The proceeding shall be commenced by filing a verified petition in the district court in the county in which the property is located. The petition shall state that the conditions specified in subsection (a) exist. All parties in interest of the property, including the enforcing official, shall be named as defendants in the petition. . . .

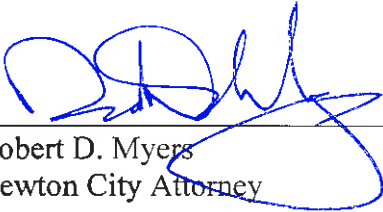
Finally, I suggest that through the definition of “rehabilitation” it be made clear that demolition of any or all of the existing structures can be a part of an acceptable rehabilitation plan. The current definition of “rehabilitation” is “the process of improving the property into compliance with applicable fire, housing and building codes.” The use of the work “improving” could raise a question as to whether any rehabilitation work can include a demolition of an existing structure. This could be clarified in one of two ways, by changing the definition to either of the following:

“Rehabilitation” means the process of bringing the property into compliance with applicable fire, housing and building codes.

or:

“Rehabilitation” means the process of improving the property into compliance with applicable fire, housing and building codes, which can include the demolition of any existing structures on the property.

Thank you for considering these comments as part of your deliberations.

  
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Robert D. Myers  
Newton City Attorney