

By: Ellis

S.B. No. 352

A BILL TO BE ENTITLED

AN ACT

relating to the method of providing notice in the enforcement of certain municipal ordinances involving substandard buildings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 54.035(a), Local Government Code, is amended to read as follows:

(a) Notice of all proceedings before the commission panels must be given:

(1) by personal delivery or by ~~[certified]~~ mail through the United States Postal Service in a manner that provides for delivery confirmation, [return receipt requested,] to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien and/or other applicable instruments on file in the office of the county clerk; and

(2) to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.

SECTION 2. Section 54.039(a), Local Government Code, is amended to read as follows:

(a) Any owner, lienholder, or mortgagee of record jointly or

1 severally aggrieved by any decision of a commission panel may
2 present a petition to a district court, duly verified, setting
3 forth that the decision is illegal, in whole or in part, and
4 specifying the grounds of the illegality. The petition must be
5 presented to the court within 30 calendar days after the date a copy
6 of the final decision of the commission panel is personally
7 delivered or mailed through the United States Postal Service in a
8 manner that provides for delivery confirmation [~~by first class~~
9 ~~mail, certified return receipt requested~~], to all persons to whom
10 notice is required to be sent under Section 54.035. The commission
11 panel shall personally deliver or mail that copy promptly after the
12 decision becomes final. In addition, an abbreviated copy of the
13 order shall be published one time in a newspaper of general
14 circulation in the municipality within 10 calendar days after the
15 date of the delivery or mailing of the copy as provided by this
16 subsection, including the street address or legal description of
17 the property; the date of the hearing, a brief statement indicating
18 the results of the order, and instructions stating where a complete
19 copy of the order may be obtained, and, except in a municipality
20 with a population of 1.9 million or more, a copy shall be filed in
21 the office of the municipal secretary or clerk.

22 SECTION 3. Sections 214.001(d) and (g), Local Government
23 Code, are amended to read as follows:

24 (d) After the public hearing, if a building is found in
25 violation of standards set out in the ordinance, the municipality
26 may order that the building be vacated, secured, repaired, removed,
27 or demolished by the owner within a reasonable time as provided by

this section. The municipality also may order that the occupants be relocated within a reasonable time. If the owner does not take the ordered action within the allotted time, the municipality shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. The municipality shall personally deliver or send by ~~[certified]~~ mail through the United States Postal Service in a manner that provides for delivery confirmation, ~~[return receipt requested]~~, to each identified mortgagee and lienholder a notice containing:

(1) an identification, which is not required to be a legal description, of the building and the property on which it is located;

(2) a description of the violation of municipal standards that is present at the building; and

(3) a statement that the municipality will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

(g) After the hearing, the municipality shall promptly send ~~[mail]~~ by ~~[certified]~~ mail through the United States Postal Service in a manner that provides for delivery confirmation ~~[return receipt requested]~~ or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.

SECTION 4. Section 214.0012(a), Local Government Code, is amended to read as follows:

(a) Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of a municipality issued under Section 214.001 may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the municipality is personally delivered to them or mailed to them through the United States Postal Service in a manner that provides for delivery confirmation ~~[by first class mail, certified return receipt requested]~~ or such decision shall become final as to each of them upon the expiration of each such 30 calendar day period.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.