

DANGEROUS BUILDINGS

House Bill 4081 as passed by the House Second Analysis (4-9-03)

Sponsor: Rep. Gary Woronchak
Committee: Regulatory Reform

THE APPARENT PROBLEM:

For years, newspaper articles have chronicled the problem that many municipalities face in regard to unoccupied or abandoned houses and properties that pose a safety or health threat to nearby residents. Especially prevalent in urban areas, these dilapidated properties are often used by squatters or drug dealers and users; become home to vermin such as rats or insect infestation; present dangers to children who play on the grounds or in the structures from broken glass, leftover rubbish, and crumbling walls, floors, etc.; and negatively impact neighboring property values.

If a property meets criteria in the Housing Law of Michigan as a “dangerous building”, local governments are authorized to proceed against the owner. If, after a series of notices and hearings, the owner fails to comply with an order to demolish or repair the building, the local government may either repair or demolish it. The owner must then reimburse the local government for its costs or a lien will be attached to the property so that it cannot be sold to another party.

However, an order to demolish must be based on the structure having been substantially destroyed by fire, wind, flood, or other natural disaster (though the definition of a “dangerous building” in the act refers to damage by fire, wind, flood, or other cause) to the extent that the cost of repairing it would be greater than the state equalized value. Though it seems apparent to some that vandalism or years of abandonment, neglect, and deterioration could also result in a structure becoming a dangerous building, it has been reported that some judges have been reluctant to interpret the phrases “other cause” and “natural disaster” to include such damage. At the request of officials from the City of Dearborn, legislation has been offered to include damage from deterioration, neglect, abandonment, and vandalism in the type of damage that would allow municipalities to order the demolition of a dangerous building.

THE CONTENT OF THE BILL:

The Housing Law authorizes a local government to act against the owner of a “dangerous building” and allows it to demolish or repair a building if, after a series of hearings and notices, the owner fails to comply with an order to demolish or repair the building. The owner or party in interest in whose name the property appears must reimburse the local unit. House Bill 4081 would amend the act in the following ways:

- The bill would add to the definition of “dangerous building” so that the term would specifically include cases where a portion of a building was damaged by deterioration, neglect, abandonment, or vandalism (in addition to buildings damaged by fire, wind, flood, and other catastrophic causes).

- Currently, the act says that, in the case of an order of demolition, if the local legislative body or board of appeals determines that the building or structure has been substantially destroyed by fire, wind, flood, or other natural disaster, and the cost of repair will be greater than its state equalized value (SEV), then the owner, agent, or lessee would have to comply with the demolition within 21 days after the date of the hearing. The bill would add deterioration, neglect, abandonment, and vandalism to the list of destructive forces, and replace the term “natural disaster” with “cause” so as to include any manmade damage. It would also specify that if the estimated cost of repair of a building or structure exceeded the state equalized valuation of the building or structure, a rebuttable presumption would exist that the building or structure required immediate demolition. (Note: In the definition for “presumption” contained in *Black’s Law Dictionary*, the term “rebuttable presumption” is defined as “an inference of law which holds good until it is invalidated by proof or a stronger presumption.”)

- Under the act, the cost of demolition incurred by a city, village, or township must be reimbursed to the unit by the owner or party in interest in whose name the property appears. The bill would specify that the cost of demolition would include, but not be limited

to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under the act.

MCL 125.539 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would, to the extent that its provisions expand upon what is traditionally considered “demolition costs”, increase revenue collected by local units of government in such instances. (3-28-03)

ARGUMENTS:

For:

According to testimony offered before the committee by City of Dearborn officials, local judges have been reluctant to order demolition in cases involving houses or other buildings rendered unsafe due to vandalism or years of neglect, abandonment, or deterioration even though such cases could fit into the definition of a dangerous building under the phrase “other causes”. The bill would resolve this problem and thereby allow municipalities to order the demolition of houses and other structures that were substantially damaged by neglect, vandalism, abandonment, or deterioration. If the cost of repairs were determined to exceed the state equalized value of the property (typically equal to one-half of the market value), there would be a rebuttable presumption that the structure required immediate demolition. Reportedly, demolition orders are generally reserved for those properties considered to be past the point of rehabilitation without the availability of vast sums of money. However, the right of the owner to appeal the municipality’s demolition order would remain unchanged. This is important, as some recent proposals to solve this problem would have shortened timeframes for appeals, thereby allowing local governments to demolish buildings in a speedier fashion. Such proposals generated much opposition from homeowners who were sincerely trying to obtain the financing necessary to make the needed repairs and from historic preservation groups who often needed time to raise funds sufficient to repair dilapidated older homes and buildings. The bill, therefore, protects current rights of property owners, yet should aid local governments in the fight to rid their communities of dangerous buildings that pose a health and/or safety risk to residents.

POSITIONS:

The Michigan Municipal League supports the bill. (3-25-03)

Representatives of the City of Dearborn testified in support of the bill. (3-25-03)

The Department of Consumer and Industry Services supports the concept of the bill. (3-25-03)

Analyst: S. Stutzky

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.