

**Performance Audit:
In Rem Process**

April 2023

**City Auditor's Office
City of Atlanta**

File #22.12



CITY OF ATLANTA
City Auditor's Office
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April 2023

Performance Audit:

Why We Did This Audit

Atlanta City Council introduced Ordinance 22-O-1253 requesting the City Auditor's Office audit the city's In Rem processes, in response to constituent concerns regarding In Rem-related demolitions

What We Recommended

To use all options for In Rem abatement provided by the Housing Code, the Code Enforcement Director should:

- work with the judicial agencies, Municipal Court and Solicitor's Office, to develop a road map and establish procedures and criteria for deciding which properties should be handled under Administrative or Judicial In Rem processes

To increase the usage of the Vacant Property Registry, the Code Enforcement Director should:

- develop a strategy to use various outreach methods to provide community education about the Vacant Property Registry
- prepare for City Council consideration an ordinance to remove the vacant property registration/renewal fee

To increase the transparency of the In Rem process, the Code Enforcement Director should:

- use Accela to record each step of the In Rem process

For more information regarding this report, please use the "contact" link on our website at www.atlaudit.org

In Rem Process

What We Found

A property is a candidate for In Rem if it is both open and vacant and also represents a hazard to the health, safety, or general welfare of the public. The city's housing code does not dictate how long a period a property owner is given to bring their property into compliance before the complaint is referred to the In Rem process. Based on property conditions, the administrative In Rem Review Board or the Municipal Court judge issues an order for the city either to clean and close the property or to demolish the property. The city then files a lien with the Fulton County Recording Division or the DeKalb County Real Estate Division against the property for any costs related to cleaning and closing or demolition of a structure.

In a simple random sample of 46 demolitions, we found that the city complied with applicable state and city code requirements to contact property owners, to obtain historic preservation and environmental clearances, and to ensure asbestos was appropriately abated and demolitions were permitted.

There are no best practices for the In Rem process specified by national and local code enforcement organizations. In 2014, the Center for Community Progress prepared a report for the city suggesting policies for addressing vacancy and abandonment. The report recommended using the Judicial In Rem process with the Judicial In Rem tax sale, to increase the likelihood of the city recovering its costs.

Certified mail notices are returned unclaimed, and some property owners may be unaware that their property has been referred to the In Rem process. Between January 2016 and May 2022, about 92% of properties demolished by the city through In Rem proceedings were not registered in the Vacant Property Registry.

Code enforcement's compliance resolution staff use spreadsheets, file checklists, and maintain documentation outside of Accela.

Management Responses to Audit Recommendations

Summary of Management Responses		
Recommendation #1:		
We recommend that the Code Enforcement Director work with the judicial agencies, Municipal Court and Solicitor's Office, to develop a road map and establish procedures and criteria for deciding which properties should be handled under Administrative or Judicial In Rem processes.		
Response: Agree	Status: Partly Implemented	Estimated Completion Date (M/Y): 3 rd quarter 2023
Recommendation #2:		
We recommend that the Code Enforcement Director develop a strategy to use various outreach methods to provide community education about the Vacant Property Registry.		
Response: Agree	Status: Started	Estimated Completion Date (M/Y): 2 nd quarter 2023
Recommendation #3:		
We recommend that the Code Enforcement Director prepare for City Council consideration an ordinance to remove the vacant property registration/renewal fee.		
Response: Agree	Status: Not Started	Estimated Completion Date (M/Y): 2 nd quarter 2023
Recommendation #4:		
We recommend that the Code Enforcement Director use Accela to record each step of the In Rem process.		
Response: Agree	Status: Started	Estimated Completion Date (M/Y): March 2024



CITY OF ATLANTA

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April 6, 2023

Honorable Mayor and Members of the City Council:

We undertook this audit because Atlanta City Council heard constituent concerns regarding In Rem in March 2022 and requested an audit of the city's In Rem processes.

In our sample of In Rem-related demolitions, we found that the Code Enforcement Section complies with state and city requirements in following its Administrative In Rem process. Code Enforcement can improve by increasing use of available resources, including the Judicial In Rem process, which raises the priority of the city's lien on a property, and by recording all of its activities in the Accela database to increase transparency in the In Rem process. We also recommend that Code Enforcement prepare legislation to eliminate vacant property registration and renewal fees to encourage and increase owner participation in registering vacant properties.

The Audit Committee has reviewed this report and is releasing it in accordance with Article 2, Chapter 6 of the City Charter. We sent a draft report to management on December 2, 2022, and received their response on January 13, 2023. We appreciate the courtesy and cooperation of city staff throughout the audit. The team for this project was Micheal Jones and Myra Hagley.

Amanda Noble
City Auditor

Daniel Ebersole
Vice Chair, Audit Committee

In Rem Process

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Introduction

We undertook this audit because the Atlanta City Council introduced Ordinance 22-O-1253 requesting the City Auditor’s Office audit the city’s In Rem processes, in response to constituent concerns regarding In Rem-related demolitions. The city’s code enforcement process gives property owners time to bring properties into compliance. After multiple attempts to induce compliance have failed, the city may take an “In Rem” (against a thing) action to resolve hazardous code violations.

Previously, our office conducted audits of Code Enforcement in [2010](#) and in [2019](#). In those audits, we identified a need for staffing resources and reliable data to track and manage work. This audit assesses whether the city’s In Rem processes meet best practices and whether demolition orders consistently followed state and city codes and internal policies and procedures.

Background

The city of Atlanta has a goal of creating “a safe, healthy, attractive and economically sound urban environment” by defining minimum standards for property owners to maintain their properties in order to protect public health and safety, while balancing against the “undesirability of imposing particular requirements upon owner-occupants.”¹ The city’s Housing Code provides that property owners have a duty to take care of their properties or risk those properties being declared a public nuisance. Properties that are dilapidated, open, and vacant are considered “highly hazardous” and are eligible for enforcement through In Rem proceedings.

Owners are also required to register vacant residential property. Once an owner registers a vacant property, Code Enforcement documents the contact information in Accela. Vacant property registrations are valid for one year, after which the owner must renew the registration if the building remains vacant. Once an owner’s contact information is on file in the vacant property registry, it is much easier for the city to contact an owner about any future code violations. From January 2016 to May 2022, owners registered 3,486 properties in the property registry.

¹ [Atlanta Housing Code of 1987 Sec. 2 Declaration of Policy](#)

Citizens can submit property code complaints through ATL311, the city’s customer service helpline and website. The Atlanta Police Department’s Code Enforcement Section is responsible for investigating property code violations, such as damaged, leaking roofs; broken windows; inadequate heat; rodent infestation; electrical hazards; overgrown lots; junk vehicles; vacant littered lots; dilapidated or open and vacant structures; and other conditions that would make a property unsafe to its occupants or dangerous to the public. Examples of violations are shown in Exhibit 1. The property shown is dilapidated, open, vacant, and has substantial overgrowth. It was determined to be eligible for In Rem.

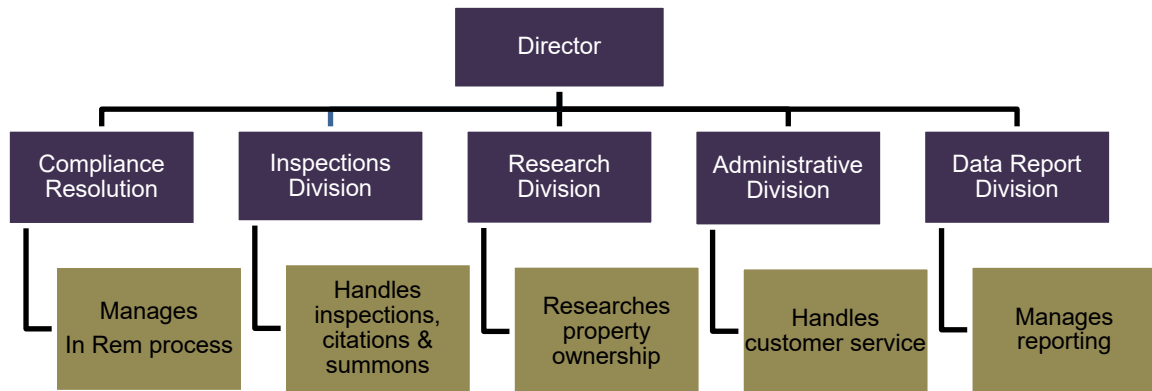
Exhibit 1: Dilapidated, Open, Vacant Structure with Overgrowth Poses Hazard



Source: Photos provided by Code Enforcement Housing Demolition Officer, taken during an In Rem inspection on June 1, 2022, with auditor present.

The Code Enforcement Section comprises five divisions reporting to the director. As shown in Exhibit 2, each of the divisions handles a different aspect of code enforcement.

Exhibit 2: Five Divisions Handle Code Enforcement Activities



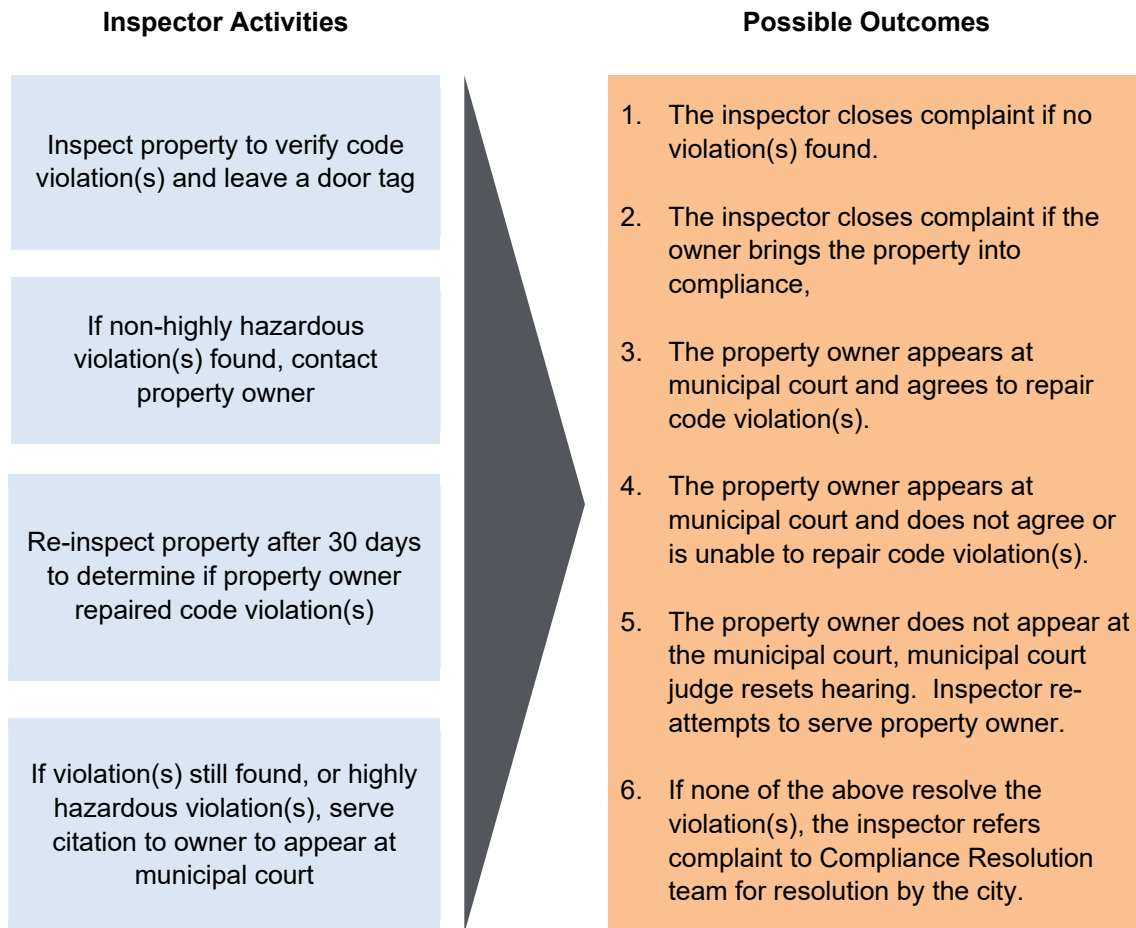
Source: Developed by auditors based on interviews with Code Enforcement staff.

Owners Have Opportunities to Bring Property into Compliance

When a citizen reports a code violation complaint, Code Enforcement’s Inspections Division inspects the property to confirm whether there is a violation. If the inspector finds a non-highly hazardous code violation, the administrative division mails the owner a notice of non-compliance, giving the property owner 30 days to bring the property into compliance, after which the inspector re-inspects the property. If the owner has resolved the violation, the inspector closes the case. If the violation still exists or if the initial inspection found a highly hazardous violation, the inspector prepares the case for court. The owner is served with a citation or civil summons and required to appear in Municipal Court. The judge hears the case and renders a decision, which could include a fine, civil penalties, and/or a jail sentence. If the owner does not appear, the judge can reset the hearing or enter a judgment in absentia.

The property owner can be cited multiple times until the property is brought into compliance. If these attempts at inducing compliance fail, the inspector may refer the complaint to the Compliance Resolution team for the city to take In Rem action to resolve the violation. See Exhibit 3 for a summary of activities and possible outcomes.

Exhibit 3: City's Goal is Property Owner Compliance



Source: Developed by auditors based on information from and interviews with Code Enforcement staff.

Prior audit work found that the majority of complaints were resolved by owners. In [our 2019 audit](#), we found that of more than 30,000 cases opened from March 2015 through February 2018, 46% were brought into compliance by property owners after a notice was sent; owners complied in an additional 12% of cases after being served with citations. In 24% of cases, inspectors found no violations during the initial inspection.

The City Uses an Administrative In Rem Process

If a property owner fails to appear in court or bring their property into compliance, inspectors may refer a complaint to the Compliance Resolution team for resolution through the In Rem process. A dedicated Compliance Resolution inspector determines whether the property is eligible for an In Rem action, which could be either to clean and close or to demolish the property. Compliance Resolution staff stated that not all referred properties are eligible, in which case they refer the

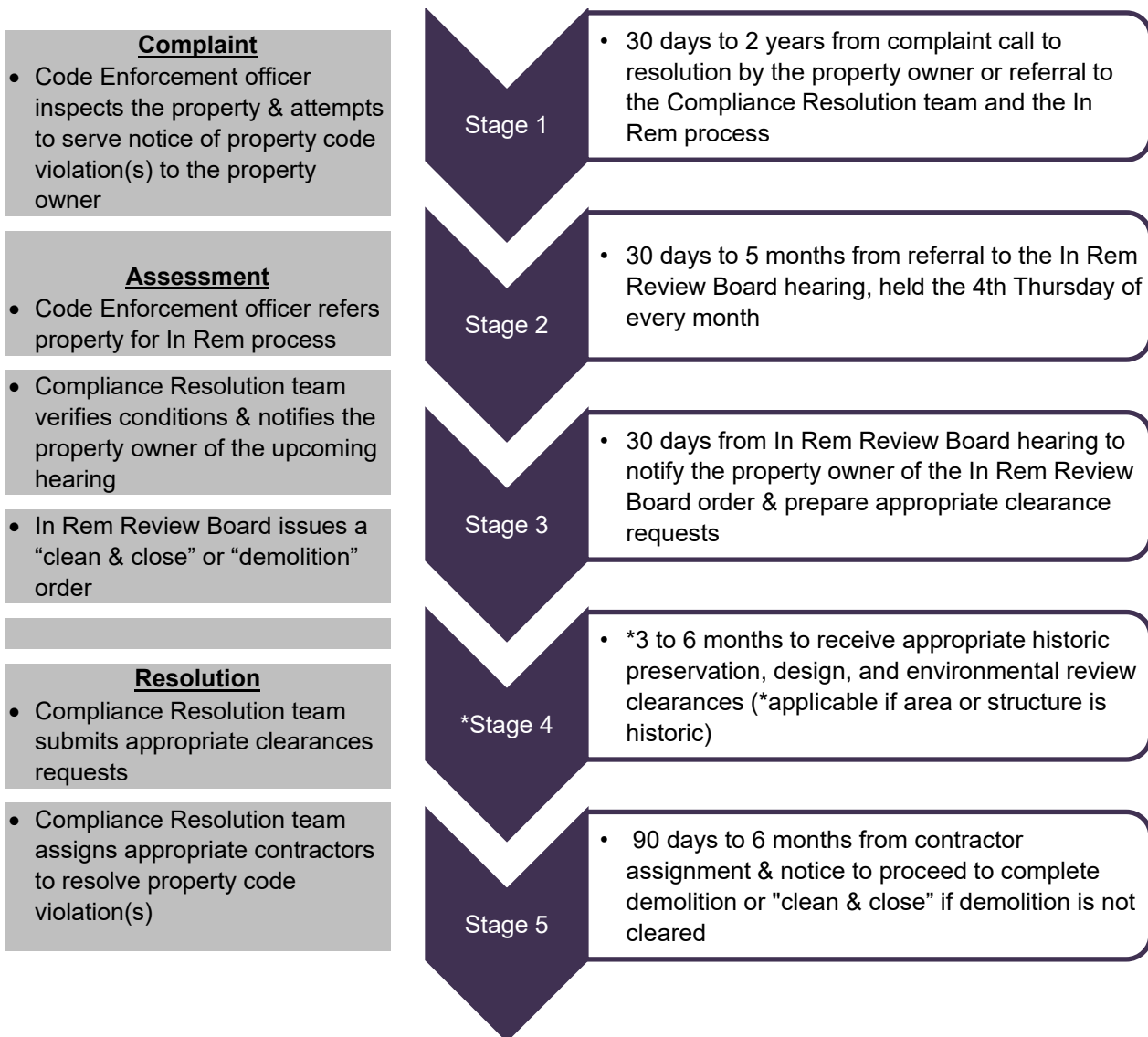
complaint to the regular code enforcement process described above. A property is a candidate for In Rem if it is both open and vacant and also represents a hazard to the health, safety, or general welfare of the public. The housing code provides for Administrative In Rem and Judicial In Rem; however, after 2016 the city has only used Administrative In Rem. A detailed illustration of the process is shown in [Appendix B](#).

In the Administrative In Rem process, the In Rem Review Board reviews the complaint and issues orders. Compliance resolution staff prepares the property complaint file for review by the In Rem Review Board in the monthly hearing. The Board originally consisted of five members appointed by the Mayor and approved by City Council. In June 2022, City Council approved an amendment to the Housing Code to increase Board membership to include four new City Council appointments. Board members must be city residents and engaged in residential construction, architecture, residential finance, or general business.

The city's Housing Code does not dictate how long a period a property owner is given to bring their property into compliance before the complaint is referred to the In Rem process. Once a property is determined to be eligible for the In Rem process, the city must follow its Housing Code requirements and the state's historic preservation and environmental regulations before assigning a property for demolition.

Depending on property conditions, assessed repair costs, staff testimony, and testimony from the property owner and/or interested parties, the Board determines whether it is better value for the owner to clean and close the property (cost to repair less than 50% of assessed value) or to demolish the property (cost to repair greater than 50% of assessed value). The term "clean and close" means that the property needs to be cleared of excess overgrowth and debris and boarded to city specifications to ensure that the general public cannot access the property. Staff told us that a property owner may request a hearing reset for additional time to comply. As shown in Exhibit 4, a property is rarely demolished in less than six months from the date of the initial inspection. The process could be extended if the Municipal Court judge or In Rem Board allows property owners additional time to correct violations, or if the property is in a designated historic area.

Exhibit 4: Code Enforcement Follows Four to Five Stages Before In Rem Resolution



Source: Prepared by auditor based on city code and Code Enforcement policies and procedures

According to the compliance resolution spreadsheet data, the city used this Administrative In Rem process to demolish 446 properties from January 2016 through May 2022. These demolished properties represent less than 1% of the more than 57,000 complaints initiated over that same timeframe.

Under the Judicial In Rem process, the property complaint is submitted to the Municipal Court judge to review and issue orders. Law department staff told us that they were not aware of a formalized Judicial In Rem Process. Code enforcement staff told us that they

worked with the Solicitor's Office and completed five property demolitions using the Judicial In Rem process in 2016.

The City Makes Reasonable Attempts to Contact Owners

By the time a complaint is referred to the Compliance Resolution team for In Rem action, the city has already attempted to contact an owner by mailing a notice and/or a serving a citation, summoning the owner to appear in Municipal Court. During the Administrative In Rem process described in [Appendix B](#), the city makes several additional attempts to communicate with the owner, both directly and publicly, both before and after the In Rem Review Board hearing. Furthermore, if owners have registered vacant property as required by the Housing Code, the city should have their contact information and they should be easy to contact.

The city's Housing Code requires four types of communications to notify property owner(s) and interested parties of the date, time, and location of the hearing. Additionally, staff submits a website notice to the Municipal Court and police department websites and distributes a copy of the hearing agenda to the Mayor's office and City Council. In advance of the In Rem Review Board hearing, the Compliance Resolution administrative staff uses a contracted title search attorney to perform a title search for the property owner(s) and interested parties, which can include businesses, heirs and heirs-at-law, lien holders (banks, utilities, city, and state), and anyone who has filed a civil action against the property. The hearing can be reset if the title search was not completed in time to provide adequate notice to the property owner and interested parties.

Once staff receives the completed title search, staff performs the following tasks:

- 14 days prior to hearing date, sends hearing notice by certified mail to property owner(s) and interested parties
- 14 to 30 days prior to hearing date, posts a copy of the hearing notice on the property
- two consecutive weeks (once a week) prior to the hearing date, advertises the hearing notice in the county (Fulton or DeKalb) legal organ where the property is located
- prior to the hearing, files lis pendens in the county (Fulton or DeKalb) where the property is located

After the hearing, Compliance Resolution staff sends a copy of the clean and close or demolition order to the property owner and interested

parties by certified mail. The property owner has 30 days after the Board's order to file an appeal with the code enforcement director, who will respond within 30 days. The property owner has 30 days after receiving the code enforcement director's decision to file an appeal with the clerk of the Municipal Court.

The City Records Liens to Recover Costs of In Rem Actions

City Housing Code Section 37 authorizes the code enforcement director to file a lien against the property for any costs related to cleaning and closing or demolition of a structure. After Compliance Resolution staff verify the In Rem action is complete and calculate costs, they submit a request to the Department of Finance's Office of Revenue to file the Administrative In Rem lien. Revenue staff files the lien with the Fulton County Clerk of Superior and Magistrate Courts Recording Division or the DeKalb County Clerk of Superior Court Real Estate Division and maintains a physical file of the lien paperwork in their records room. The lien is to be paid when the property is sold. If the lien remains unpaid after seven years, Finance may refile the lien to continue liability. When Office of Revenue staff receive a request to pay off the In Rem lien from the property owner, they calculate the payoff amount which includes the original lien amount, plus interest and the filing fee. The Office of Revenue's payment processing team processes payment and files the proof of payment in their records room. Then staff cancel the lien with the Fulton County Recording Division or the DeKalb County Real Estate Division.

Audit Objectives

This report addresses the following objectives:

- Does the city's administrative In Rem process follow best practices?
 - Did the city's demolition orders consistently follow state law, city code and its own In Rem process policies and procedures?
-

Scope and Methodology

We conducted this audit in accordance with generally accepted government auditing standards. We reviewed code enforcement data for complaints opened from January 2008 through May 2022. We also reviewed data for properties demolished by the city from January 2016 through May 2022.

Our audit methods included:

- reviewing federal and state laws, city code, and internal policies for guidance regarding the approvals for nuisance abatement activities and implementation of the administrative In Rem process
- interviewing compliance resolution team management and staff to understand administrative In Rem-related policies, procedures, and practices
- researching to understand if the city's administrative In Rem process and nuisance abatement practices are comparable to other jurisdictions
- analyzing code enforcement section's Accela usage and reporting capabilities
- conducting a physical file review associated with random samples of cases where the property was demolished

Generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Findings and Analysis

City Complies with In Rem Requirements

The city must balance its goals of safeguarding public health and safety from highly hazardous properties and also ensuring it does not violate the rights of property owners. To achieve this balance, the city must comply with applicable federal and state laws as well as the requirements of the city's Housing Code. We reviewed a sample of demolitions to confirm that the city:

- followed requirements to contact owners of demolished properties
- obtained required historic preservation and environmental clearances
- followed its process for ensuring asbestos was appropriately abated and demolitions were permitted

We reviewed a simple random sample of 10% of demolitions (46 demolitions) and found that the city complied with applicable requirements. For a detailed list of the requirements and their sources in federal, state, or city codes, please see [Appendix C](#).

City Contacted Owners of Demolished Properties

As described in the background section of this report, the city's In Rem process requires the city to make reasonable attempts to contact owners and other interested parties both before and after an In Rem Review Board hearing for a property. We found evidence that the city had made these attempts for the 46 demolished properties in our sample.

The city provides advance notice of In Rem Review Board hearings both publicly and privately. Following the requirements of both state law and the city Housing Code, the city must pursue four separate avenues of notifying property owners and other interested parties of an upcoming hearing for a property:

- provide complaint and In Rem Review Board hearing notice by certified mail to all owner(s) and interested parties whose identities and addresses are reasonably ascertainable
- advertise In Rem Review Board hearing notice to interested parties whose mailing addresses are unknown

- file notice of lis pendens with the clerk of superior court in the county where the structure is located
- post a copy of complaint and In Rem Review Board hearing notice on the property

In all 46 sampled demolition files, we found documentation of these communications:

- copy of letter sent by certified mail to owners/interested parties (43 of 46 letters had a certified mail slip stapled to them)
- copy of advertisement and email request to the legal organ
- copy of lis pendens filing
- photograph of complaint and hearing letter posted on the wall next to the front door of the property

The city is also required to notify owners of orders issued by the In Rem Review Board. In all 46 sampled files, we found copies of the letters sent by certified mail.

City Obtained Required Clearances and Permits for Demolitions

Before proceeding with a demolition, the city must obtain any applicable historical preservation or environmental clearances, commission an asbestos survey and abate asbestos if found, obtain a permit for demolition, and issue a notice to the contractor to proceed with demolition. Not all properties will require historical preservation or environmental clearances, and asbestos abatement is not required if no asbestos is found in the property.

In our sample of demolished properties, the files contained copies of correspondences and clearances for all properties which required historical preservation and environmental clearances. All 46 files contained asbestos reports and (where applicable) notices to proceed with asbestos abatement. All 46 files contained copies of demolition permits and notices to contractors to proceed with demolition. All 46 files contained photographs of the properties after demolition to confirm that demolitions were complete, with materials and litter cleared away and the ground leveled and filled.

In Rem Guidance is Scarce, but Comparison to Georgia Counties Suggests Possible Improvements

Code enforcement professional organizations did not provide us with authoritative best practices for In Rem processes, but there are possible improvements the city could make. DeKalb and Macon-Bibb Counties both use Judicial In Rem proceedings rather than administrative. The city's Housing Code already allows and describes the form a Judicial In Rem process could take. The main benefit of this process, as compared to the current administrative process, is that the judicial proceeding raises the priority of the property lien, which would be collectible by the appropriate county tax commissioner, along with delinquent property taxes in a Judicial In Rem tax sale.

This means that the city could recover costs of abatement more reliably than under the current administrative process, which leads to lien repayment only at the time of sale of the property or if the owner voluntarily pays off the lien. More reliable recovery of costs would provide resources to perform abatement actions as ordered by the In Rem Review Board or a municipal judge. Staff told us that currently there are not enough resources to handle the volume of code enforcement issues, so they must attempt to prioritize cases by impact to the community. The Solicitor's Office and Municipal Court may have limited resources to present and hear demolition cases, so we recommend that Code Enforcement work with the judicial agencies to develop a road map and establish procedures and criteria for deciding which properties should be handled under Administrative or Judicial In Rem processes.

The city's Housing Code requires owners of vacant property to file a registration statement, including contact information, with Code Enforcement. A widely used and up-to-date vacant property registry would greatly facilitate and expedite communication with owners about code violations. However, the registry is not currently being used widely or realizing its full potential as a tool for code enforcement. This may be due to a combination of factors such as lack of awareness of the requirement to register or the deterrent effect of a \$100 filing fee. We recommend that the Code Enforcement Director use various outreach methods to provide community education about the vacant property registry and that the director also prepare for City Council consideration an ordinance to remove the registration/renewal fee.

The city is not realizing the full potential of the Accela database software to track property complaints through the In Rem process. Code Enforcement staff uses Accela to track complaints through all the steps up to referral to the Compliance Resolution team for In Rem, but

the Compliance Resolution team does not consistently update Accela during the In Rem process. Instead, they use spreadsheets and file checklists, and maintain documentation outside of Accela. Using Accela to track the steps of the In Rem process would improve transparency both internally, where better data collection could allow for more informed decision-making around resource prioritization, and externally, allowing the public to view status of properties going through In Rem and expediting the response to records requests. To increase the transparency of the In Rem process, we recommend that the Code Enforcement Director use Accela to record each step of the In Rem process.

Code Enforcement Organizations Do Not Provide Best Practices for In Rem

We requested best practice information from several industry organizations, but none of them offers guidance for In Rem processes. These industry groups provide standards, training, and certification for code enforcement activities, but not In Rem best practices (see Exhibit 5).

Exhibit 5: Code Enforcement Organizations Do Not Provide In Rem Guidance

Organization	Note
International Code Council (ICC)	<ul style="list-style-type: none"> Provides standards, training, and certification No In Rem process guidance
American Association of Code Enforcement	<ul style="list-style-type: none"> Provides training and certification No In Rem process guidance
Building Officials Association of Georgia (BOAG)	<ul style="list-style-type: none"> Provides training and certification No In Rem process guidance
Georgia Association of Code Enforcement	<ul style="list-style-type: none"> Provides training No In Rem process guidance
Coastal Georgia Inspectors Association	<ul style="list-style-type: none"> Provides training and certification Promote ICC and BOAG objectives No In Rem process guidance
North Georgia Code Officials Association	<ul style="list-style-type: none"> Chapter of the ICC No In Rem process guidance

Source: Developed by auditor based on communications with listed organization

The City Could Use Judicial In Rem Process to Recoup Costs

The city's Housing Code provides for Administrative In Rem and Judicial In Rem; however, since 2016 the city has only used Administrative In Rem. A 2014 report by the Center for Community Progress suggested that the city use the Judicial In Rem process (with the Judicial In Rem tax sale) instead of the Administrative In Rem process. Both processes have similar requirements for communication with owners and other interested parties; both processes allow the city to place a lien on a property to recover costs of abatement. The Judicial In Rem process, however, allows the county tax commissioner to collect the amount of the lien along with delinquent property taxes, and allows for a tax sale proceeding to recover costs if necessary. Both DeKalb County and Macon-Bibb Counties use Judicial In Rem processes; Fulton County's tax commissioner's website indicates that they perform Judicial In Rem tax foreclosure sales.

The Solicitor's Office and Municipal Court may have limited resources to present and hear demolition cases; however, because the Judicial In Rem process may allow for more reliable recovery of the city's costs incurred in abatement of hazardous property conditions, we recommend that Code Enforcement work with the judicial agencies to develop a road map and establish procedures and criteria for deciding which properties should be handled under Administrative or Judicial In Rem processes.

In 2014, the Center for Community Progress prepared a report for the city that suggests policies for addressing vacancy and abandonment. The report describes the current administrative In Rem process as ineffective at making property owners compliant with city housing code, with negligent property owners benefiting from clean and close or demolition orders paid by the city with taxpayer funds. The report recommends instead using a Judicial In Rem process as described in [Article V](#) of the city's Housing Code.

The Judicial In Rem process described in the Housing Code requires similar attempts at communicating with owners as the administrative process described in the Background section of this report, but rather than a hearing with the In Rem board, a court hearing is required, with any orders issued by a judge. The judge can order the owner to close or demolish a property, just as the In Rem Review Board can, with the city to accomplish the remediation if the owner does not comply. Also, a lien is applied to the property to recover costs incurred by the city, just as in the administrative process; however, under the judicial process, this is a priority lien to be collected by the county tax commissioner through a Judicial In Rem tax sale, along with delinquent property

taxes. This means that the city could recoup its costs much more reliably than under the administrative process, and that an enforcement proceeding or tax sale for delinquent property taxes would also include the amount of the city's lien on the property. The Fulton County Tax Commissioner's website indicates that they perform Judicial In Rem tax foreclosure sales when necessary.

DeKalb and Macon-Bibb Counties use judicial In Rem proceedings. In unincorporated DeKalb County, a code enforcement unit uses an In Rem process to address vacant and blighted properties. Rather than use an administrative process such as the one Atlanta uses, In Rem hearings are heard in court. The judge can then issue orders for the owner or the county to repair, close, or demolish properties. Similarly, in Macon-Bibb County, county government works with the county tax commissioner to collect liens through Judicial In Rem tax foreclosure.

Code enforcement staff told us that the Solicitor's Office and Municipal Court may have limited resources to present and hear demolition cases. Because the judicial In Rem process may allow for more reliable recovery of the city's costs incurred in abatement of hazardous property conditions, we recommend that the Code Enforcement Director work with the judicial agencies, Municipal Court and Solicitor's Office, to develop a road map and establish procedures and criteria for deciding which properties should be handled under Administrative or Judicial In Rem processes.

Increased Usage of Vacant Property Registry Would Facilitate and Expedite Communication with Owners

The city's Housing Code requires owners to register vacant residential property. Vacant property registrations are valid for one year, after which the owner must renew the registration if the building remains vacant. Widely used and up-to-date registration of vacant properties and owners would make it much easier for the city to contact an owner in the event of a code violation. Property owners may not be aware, however, of the requirement to register their vacant property or may be deterred from filing registration statements by the \$100 filing fee. From January 2016 to May 2022, owners registered only 3,486 properties in the property registry, and 92% of properties demolished by the city using In Rem proceedings were not registered.

When an owner's contact information is on file in the vacant property registry, it is much easier for the city to contact an owner. Code enforcement officers use the vacant property registration as a tool to search for property owner contact information. When a code complaint is made for a vacant property and it is not on the registry,

inspectors add that to the complaint as a violation of the registry requirement. Code enforcement staff told us that in the current market, it can be difficult to keep up with owners because they are not holding onto properties for very long. This can result in certified mail being returned unclaimed and property owners being unaware that their property has been referred to the In Rem process.

Property owners may not be aware of the requirement to register their vacant property. From January 2016 to May 2022, owners registered only 3,486 properties in the property registry. Almost all the demolished properties (92%, 415 of 451) were not listed in the vacant property registry. To increase awareness of the Housing Code's vacant property registry requirement, we recommend that the Code Enforcement Director use various outreach methods to provide community education. Potential opportunities for outreach could include water bill inserts, notices at parks and community center facilities, monthly NPU meetings, increased prominence on the city's website, and billboards or advertisements on MARTA. The director could also work with the Mayor's Office of Communications on an outreach and education strategy.

The \$100 fee to register a vacant property may act as a deterrent to compliance. Currently, the Housing Code and Code Enforcement's publications state that owners must pay a \$100 fee to file a registration statement for a vacant property. This fee is also required when renewing a vacant property registration on an annual basis. This could act as a significant deterrent to a property owner considering whether to register a vacant property as required or to "take their chances" on being cited and fined. Because the registration can be accomplished online using the city's public facing Accela portal, and the benefits to the city in having a widely used, up-to-date registry of owners of vacant property are clear, we recommend that the Code Enforcement Director prepare for City Council consideration an ordinance to remove the registration/renewal fee.

City is Not Realizing Full Potential of Software to Track In Rem Process

Code Enforcement staff use Accela database software to track property complaints through various stages before referring complaints to the Compliance Resolution team for the In Rem process. Compliance Resolution staff, however, told us that they did not update the Accela database consistently. Although the Accela database has data fields available to track communications, tasks, contractors, and costs associated with the In Rem process, the team instead uses spreadsheets and a file checklist to ensure that they have completed the required

process steps. When data on the In Rem process were available in Accela, they did not always match what was recorded in the Compliance Resolution team's spreadsheets. We were told that the Code Enforcement Director's spreadsheet, and not Accela, was the most reliable source of information in the event of such discrepancies.

Increased use of Accela to track the In Rem process would allow for more transparency both internally and externally. Some Accela data, such as complaint history and certain process milestone dates, were readily available; however, other useful data were only available in the paper file. There are many steps in the In Rem process and using Accela to track these steps would allow more visibility into potential resource bottlenecks or steps with high-variance impact on turnaround time. Improved data collection could help Code Enforcement decision-making about resource management, and more efficiently bring properties into compliance.

Accela also provides a public-facing website that allows anyone to search for a specific property complaint and view status, details of completed and upcoming inspections, and any history of prior complaints against the property. Using Accela instead of spreadsheets to track the In Rem process would allow public visibility into the status throughout the process, greatly increasing transparency.

Compliance Resolution employees do not track pre-hearing and post-hearing communications to property owners in Accela, so staff cannot verify that the city complied with notification requirements except through a manual physical file review. Because this information was not in Accela, staff had to come into the office to respond to an ORR (open records request) during the COVID-19 mandatory office lockdown. If these documents were attached to a property complaint in Accela, there would have been no need for an ORR.

To increase the transparency of the In Rem process, we recommend that the Code Enforcement Director use Accela to record each step of the In Rem process.

Recommendations

In order to use all options for In Rem abatement provided by the Housing Code, the Code Enforcement Director should:

1. work with the judicial agencies, Municipal Court and Solicitor's Office, to develop a road map and establish procedures and criteria for deciding which properties should be handled under Administrative or Judicial In Rem processes.

In order to increase the usage of the vacant property registry, the Code Enforcement Director should:

2. develop a strategy to use various outreach methods to provide community education about the Vacant Property Registry.
3. prepare for City Council consideration an ordinance to remove the vacant property registration/renewal fee.

In order to increase the transparency of the In Rem process, the Code Enforcement Director should:

4. use Accela to record each step of the In Rem process.

Appendices

Appendix A: Management Review and Response to Audit Recommendations

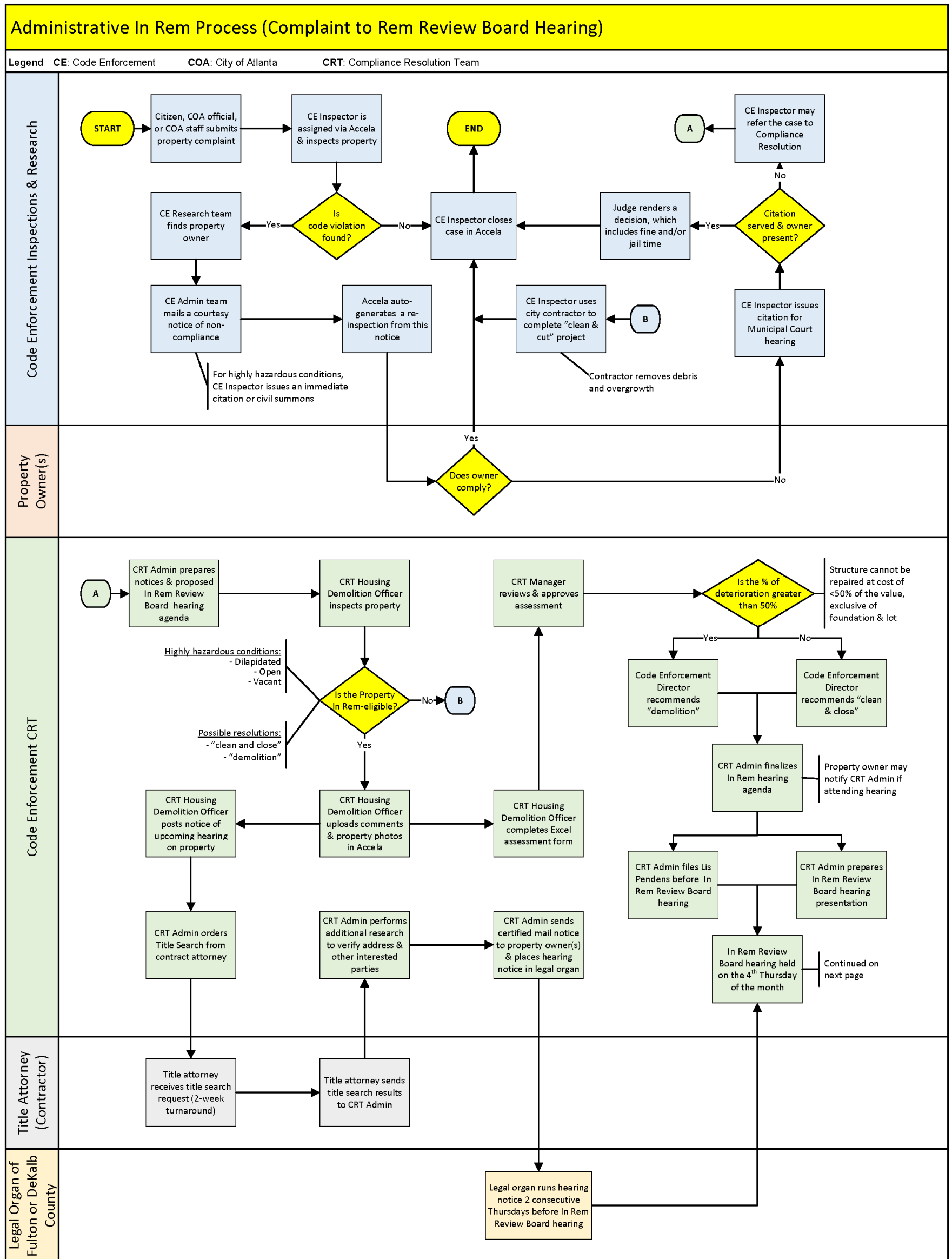
Report # 22.12	Report Title: In Rem Process	Date: January 13, 2023
<p>Recommendation 1: We recommend that the Code Enforcement Director work with the judicial agencies, Municipal Court and Solicitor's Office, to develop a road map and establish procedures and criteria for deciding which properties should be handled under Administrative or Judicial In Rem processes.</p>		
<p>Risk Category: Planning and Budgeting</p>		<p>Response: Agree</p>
<p>Related Findings: After 2016, code enforcement has only used the Administrative In Rem process for highly hazardous properties. The judicial proceeding raises the priority of the property lien which would be collectible by the appropriate county tax commissioner along with delinquent property taxes in a Judicial In Rem Tax Sale.</p>		
<p>Proposed Action: We are working with the Law Department to develop criteria and procedures to triage code enforcement complaints that are not resolved through voluntary compliance. Currently, there are three methods used to abate problematic properties: 1) Administrative In Rem proceedings, 2) Judicial In Rem proceedings, and 3) Nuisance Abatement proceedings.</p>		<p>Current Status: Partly Implemented</p>
<p>Business Owner: Atlanta Police Department Code Enforcement Section</p>		<p>Estimated Implementation Date: 3rd Quarter 2023</p>
<p>Additional Comments:</p>		
<p>Recommendation 2: We recommend that the Code Enforcement Director develop a strategy to use various outreach methods to provide community education about the Vacant Property Registry.</p>		
<p>Risk Category: Process Improvement</p>		<p>Response: Agree</p>
<p>Related Findings: Certified mail notices are returned unclaimed and property owners are unaware that their property has been referred to the In Rem process. A widely used and up-to-date vacant property registry would greatly facilitate and expedite communication with owners about code violations.</p>		
<p>Proposed Action: Currently, information concerning vacant property registration (VPR) is posted on our website. The VPR application is mailed with Notices of Non-Compliance letters, Citations, and Civil Summons when it is assumed the property is vacant and without utilities. A VPR pamphlet was created and is provided during community meetings. Additionally, VPR is enforced during Municipal court proceedings and encouraged during Administrative In Rem proceedings. We will issue more citations/civil summons</p>		<p>Current Status: Started</p>

to ensure vacant properties are registered. We will research more opportunities to raise awareness on the program.	
Business Owner: Atlanta Police Department Code Enforcement Section	Estimated Implementation Date: 2 nd Quarter 2023
Additional Comments:	

Recommendation 3: We recommend that the Code Enforcement Director prepare for City Council consideration an ordinance to remove the vacant property registration/renewal fee.	Risk Category: Planning and Budgeting	Response: Agree
Related Findings: Certified mail notices are returned unclaimed and property owners are unaware that their property has been referred to the In Rem process. A widely used and up-to-date vacant property registry would greatly facilitate and expedite communication with owners about code violations.		
Proposed Action: Propose legislation to eliminate all fees associated with Vacant Property Registration.		Current Status: Not Started
Business Owner: Atlanta Police Department Code Enforcement Section		Estimated Implementation Date: 2 nd Quarter 2023
Additional Comments:		

Recommendation 4: We recommend that the Code Enforcement Director use Accela to record each step of the In Rem process.	Risk Category: Monitoring and Reporting	Response: Agree
Related Findings: Compliance Resolution staff use spreadsheets, file checklists, and maintain documentation outside of Accela.		
Proposed Action: Current Administrative In Rem documents are added to Accela.		Current Status: Started
Business Owner: Atlanta Police Department Code Enforcement Section		Estimated Implementation Date: March 2024
Additional Comments:		

Appendix B: Administrative In Rem Process



Source: Prepared by auditor based on city code and Code Enforcement policies and procedures

Appendix C: Federal, State, and City Criteria for In Rem Demolitions

In Rem Tasks	Required Documents	Requirement	Federal	State	City Code
Communications to Property Owner & Interested Parties	Certified Mail Slip to Property Owner	Provide complaint & In Rem Review Board hearing notice by certified mail to all owner(s) & interested parties whose identities and addresses are reasonably ascertainable		Title 41 Nuisances, Chapter 2 Nuisance Abatement	Appendix E Atlanta Housing Code of 1987
	Advertisement of Public Hearing in Legal Organ	Advertise In Rem Review Board hearing notice to interested parties whose mailing address is unknown			
	Lis Pendens (notice of legal action against a property)	File notice of lis pendens with the clerk of superior court in the county where the structure is located			
	Notice of Inspection & Public Hearing	Post a copy of complaint & In Rem Review Board hearing notice on the property			
	Certified Mail Slip Hearing Result Notice	Provide In Rem Review Board's written findings and order by certified mail to all owner(s) & interested parties whose identities and addresses are reasonably ascertainable			
Complete Clearances for Demolition	*Historic Preservation Review (if applicable)	Determine if property contributes to the historic nature of the city	National Historic Preservation Act of 1966	Programmatic Agreement for Review of In Rem Review Board Demolition Orders	
	*Section 106 Clearance (if applicable)	Determine if demolition is allowed or prohibited due to protected historic status			
	*Environmental Survey (if applicable)	Determine demolition project eligibility for community block grant funds	Housing and Community Development Act of 1974, Appendix A		Land Development Code
Notice to Proceed (NTP) Prior to Demolition	NTP Asbestos Survey	Inspect structure for the presence of asbestos	EPA Clean Air Act	EPD Asbestos Program	
	*Asbestos Abatement (if applicable)	Licensed asbestos contractors perform asbestos abatement	EPA Clean Air Act	EPD Asbestos Program	
	Demolition Permit	Obtain permit for demolition & ensure utilities have been cut off and capped at the street			Appendix E Atlanta Housing Code of 1987
	NTP Demolition	Issue notice to proceed to the demolition contractor after clearances and abatements have been completed			Procurement and Real Estate Code

Source: Prepared by auditor based on federal and state laws and regulations and city code requirements

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