



In Rem Remedy Process Overview

Council Briefing

September 3, 2019

BRIEFING OBJECTIVES

- Background
- Housing Code Overview
 - Process
 - Owner/City Options
- In Rem Remedy Overview
 - Demolition Criteria
 - Process
 - Liens
 - History
 - Examples
- Legal Considerations
- Questions



7200 Doblinway Dr (November 2018)



7200 Doblinway Dr (November 2018)

BACKGROUND

- At the June 10 Action Review meeting, Council requested more information on the In Rem Remedy process.
- In Rem is a tool available to the City to assist with:
 - Alleviating substandard housing,
 - Improving neighborhood safety,
 - Removing neighborhood blight,
 - Correcting housing code cases where the property owner has failed to bring the property into compliance.
- Before an In Rem Remedy action can be taken, the City must follow the due process procedure set forth in state law and the local housing code.



3146 Ross Ave (May 2018)

The Housing Code applies to:

- Single-family and multi-family dwellings
- Abandoned structures
- Lodging Establishments (*not otherwise regulated by the County Health Department*)
- Roominghouses



8509 Mt. Holly Rd. (March 2019)

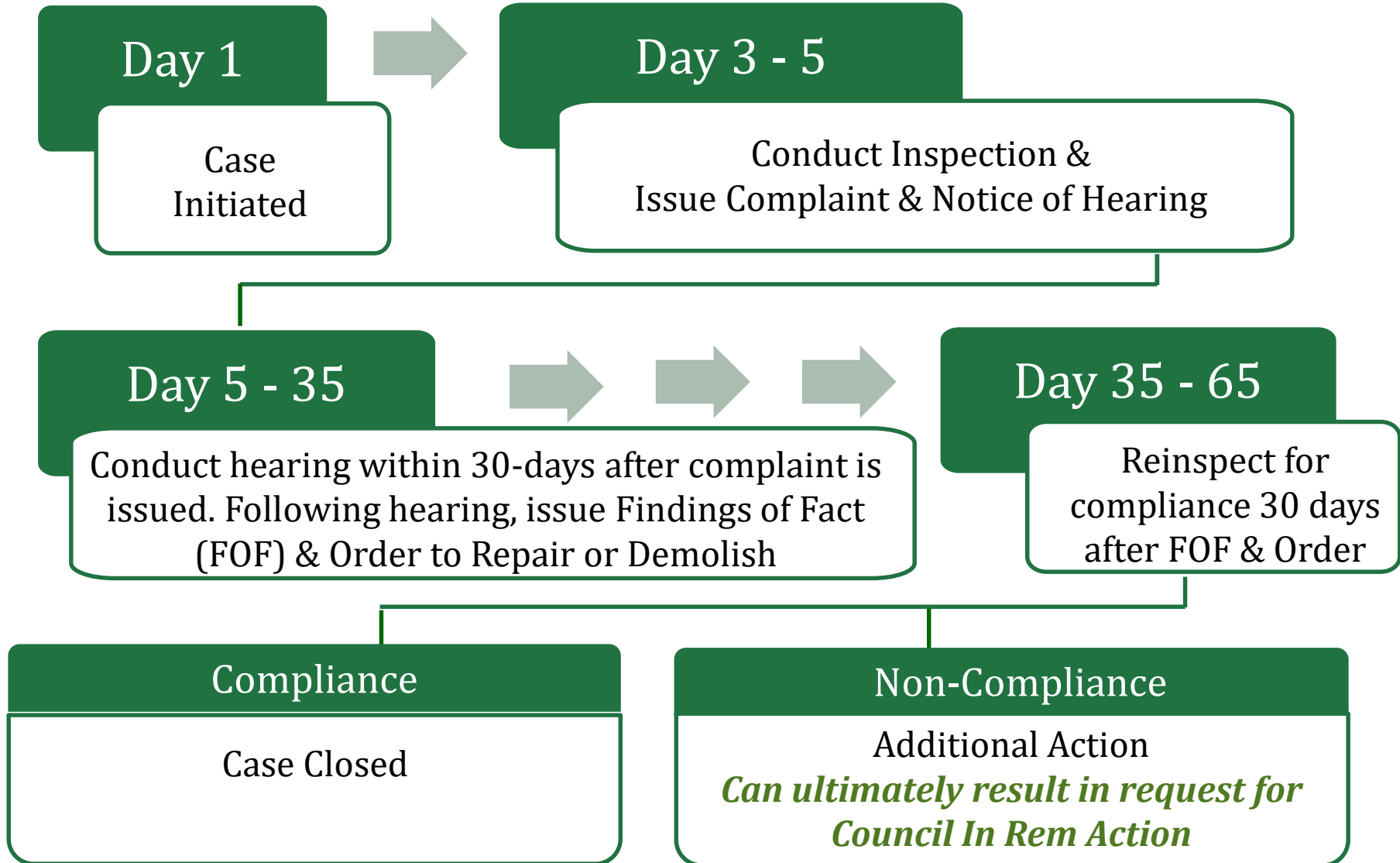
Housing Cases can be initiated by:

- Tenant complaint
- Petition (*five or more residents*)
- Field observation
- Public agency referral



8509 Mt. Holly Rd. (March 2019)

HOUSING CODE PROCESS



Day 35-65

Issue FOF &
Order to Repair
or Demolish



2415 Newland Rd. (September 2018)

Once the FOF and Order to Repair or Demolish is issued, the property owner can:

1. Appeal

- Owner has 10 days to appeal to Housing Appeals Board (HAB)
- If dissatisfied with HAB ruling, owner can appeal to Superior Court
- Once appeal is received, all enforcement ceases until appeals process is completed

2. Provide Notice of Intent to Repair

- If owner declares intent to repair, Code works with them on path forward. Extensions can be awarded as long as progress continues.
- Code issues a supplemental order to repair or demolish, as needed.

Day 65

Reinspect for
Compliance

Non-Compliance

Additional Action



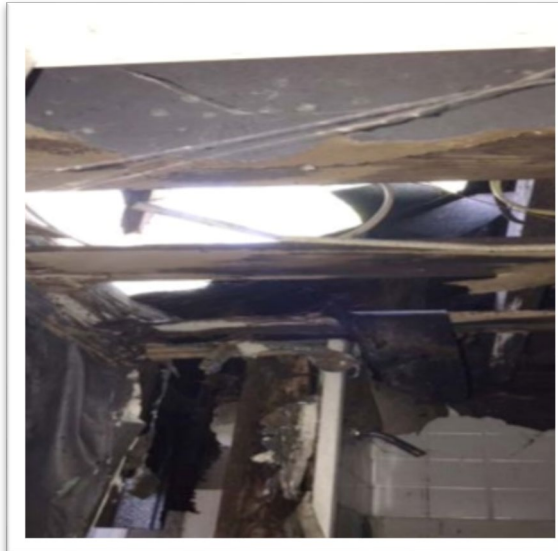
209 Pawley Dr. (July 2018)

If the owner fails to comply with FOF and Order to Repair or Demolish, the city can:

- 1. Issue Notice of Civil Penalty**
- 2. Cite owner to Environmental Court**
- 3. Seek In-Rem Remedy**
 - When cost of repair exceeds 65 percent of tax value (structure)
 - Requires City Council approval
 - Represents less than three percent of all housing cases

DEMOLITION - CRITERIA

- **When cost to repair exceeds 65 percent of current tax value (structure)**
 - State statute allows 50 percent
- **Why current tax value?**
 - The value has been determined by a recognized government entity (Mecklenburg County), and
 - Owner has had opportunity to appeal through tax office



3620 Reid Ave. (November 2018)

- **Demolition Process**

- Asbestos testing occurs on every demolition project; proper remediation required when asbestos is present
- Demolition vendors submit bid on each project; award to lowest responsible bidder
- Contactor applies for demolition permit from county
- Demolition takes place, including site conditions per city standards (grading, etc.)
- Staff confirms demolition is completed to city standards
 - 30-days to complete demolition



3019 Shenandoah Ave (2010)

DEMOLITION - LIEN PROCESS

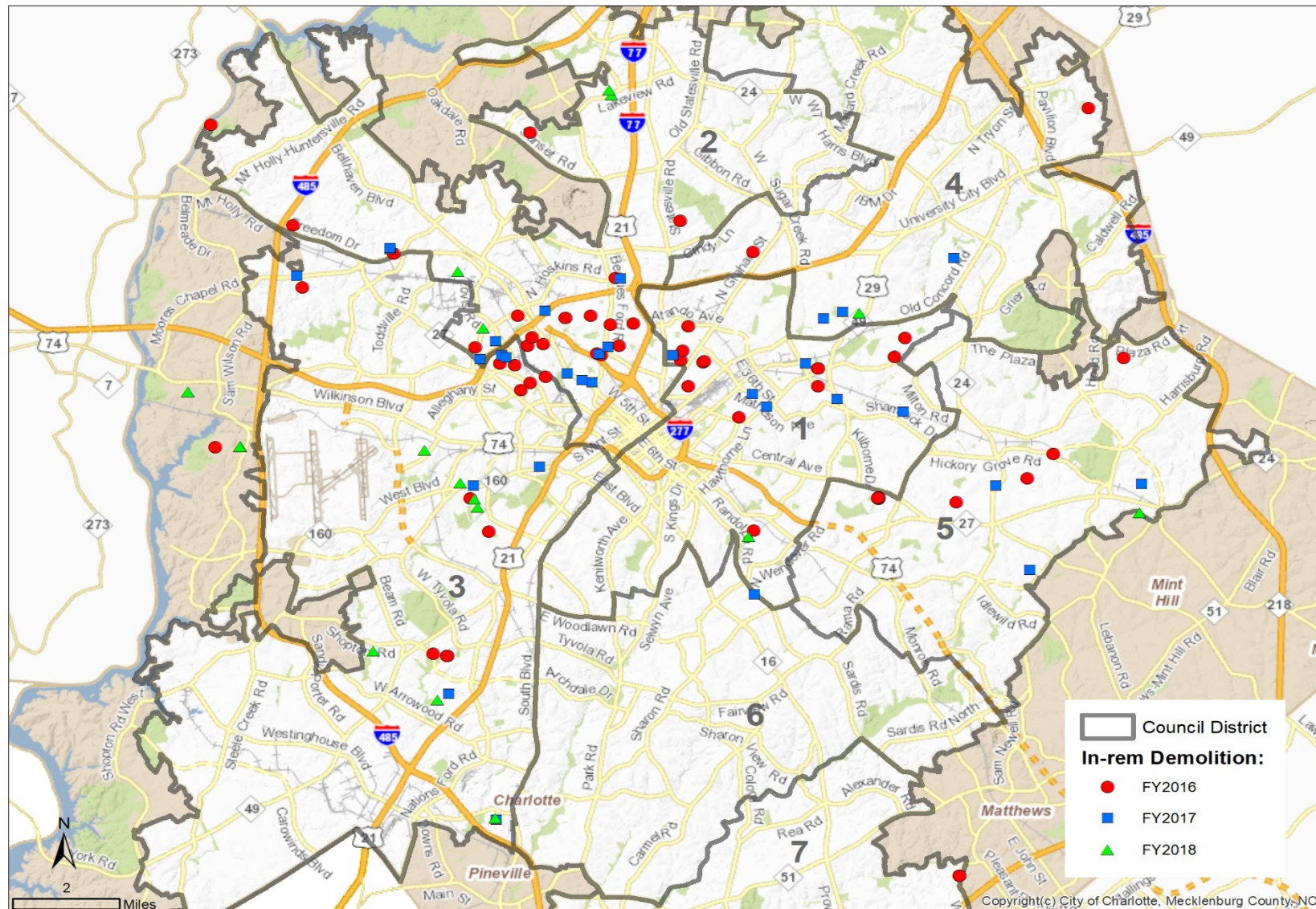
- Code Enforcement files lien at courthouse
 - Cost of demolition
 - Lien attaches to property
 - Expires after 10 years
- Collection through city's Finance Department
 - Invoice property owner
 - Refer to collection agency as needed
 - Lien is satisfied when:
 - Paid by owner
 - Paid from sale / transfer of property



1239 Caldwell Williams Rd. (March 2019)

DEMOLITION - HISTORY

Year	Initial Inspections	Demolition Orders Issued (# / %)	In-rem Demolitions (# / %)
FY2018	2,320	111 / 5%	23 / 1%
FY2017	2,141	170 / 8%	39 / 2%
FY2016	2,096	275 / 12%	65 / 3%



DEMOLITION - EXAMPLES



209 Pawley Dr. (July 2018)



5626 Murrayhill Rd.(July 2018)

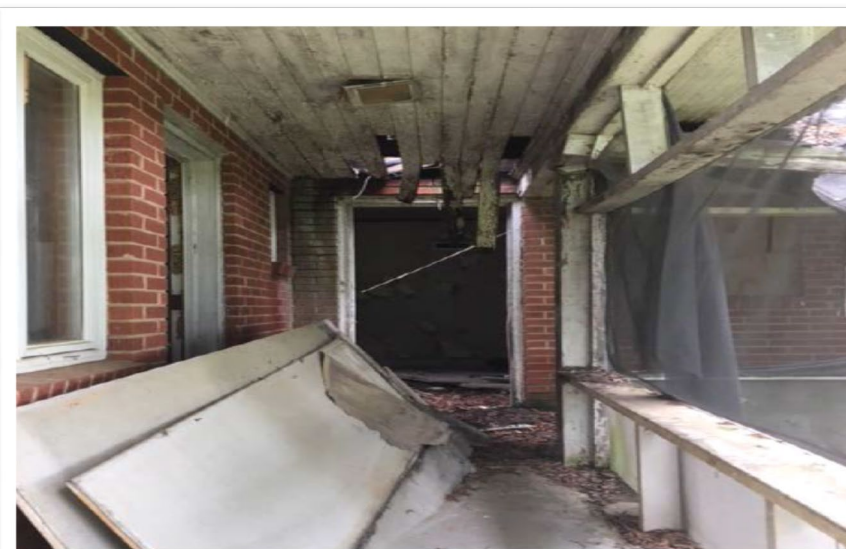
DEMOLITION - EXAMPLES



11026 Beau Riley Rd. (July 2018)

4236 Freedom Dr. (May 2019)

DEMOLITION - EXAMPLES



1106 Pondella Dr. (deferred June 2019)

10620 Independence Hill Rd. (June 2018)

- The city has statutory authority to institute foreclosure proceedings on its *in rem* liens.
- There is no guarantee that the city would be the prevailing bidder if another party were to outbid the city during a foreclosure.
- The city would be required to increase its bid as would any other active bidder for the property.

Questions