

BANKING ALERT - FLORIDA

10/15/13

The New Lee County Abandoned Property Registration Program Ordinance – How it Affects Lenders

On September 24, 2013, the Lee County Board of County Commissioners adopted the “Lee County Abandoned Property Registration Program Ordinance” with its stated purpose being to limit and reduce the deterioration of property and the protection of neighborhoods. The Ordinance goes into effect January 1, 2014, and applies to real property located in unincorporated Lee County that has been foreclosed, is currently in foreclosure or which may be in the foreclosure process in the future. The Ordinance makes no distinction between residential and commercial properties and imposes strict registration and maintenance requirements on the Lender. Specifically, the Lender must:

- register the property within 10 days of default;
- appoint a local registered agent and local property manager;
- physically inspect the property within 10 days of default with continuing inspection requirements depending on if the property is found to be occupied or abandoned;
- comply with notice posting requirements;
- perform ongoing maintenance; and
- ensure that the property is secure.

Of particular interest, the Ordinance states that a “default” arises upon the earlier of the commencement of a foreclosure action or the transmission of a default letter to the borrower. The Ordinance also provides for an annual registration fee, proscribed forms for compliance and the imposition of fines for violations.

As noted, the Ordinance applies to property that is or may have been the subject of a foreclosure, thus requiring that any property in default prior to January 1, 2014, be registered and in compliance with the Ordinance by January 10, 2014. These registration and maintenance obligations do not end at completion of the foreclosure; rather, these obligations continue where the mortgagee obtains title by foreclosure, deed-in-lieu or by any other means.

For further information on the effect of this new Ordinance, please contact the following Roetzel attorneys:

Lori Moore
239.338.4248 | lmoore@ralaw.com

Paul Giordano
239.338.4267 | pgiordano@ralaw.com