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TO: The Honorable Detroit City Council
FROM: David Whitaker, Director 
Legislative Policy Division Staff
RE: Munoz Real Estate, options for City Council
DATE: February 7, 2024

Introduction

Council Member Gabriela Santiago-Romero and members of the Public Health & Safety Standing Committee requested that the Legislative Policy Division collaborate with the Law Department and provide Council with recommendations or options for how Council may be able to address the situation involving hundreds of complaints and blight tickets issued to Munoz Real Estate a major landlord in the City.¹

LPD notes preliminarily that, as the local legislature Council is not institutionally very well-situated to deal directly with alleged slumlords. That is generally an executive branch responsibility. General legislative standards established by the state for housing, as well as implementation and enforcement application responsibilities of the City government executive branch and the Law Department, have much more direct application to particular landlords who have allegedly violated tenants' rights under existing laws, than anything the local legislative body can do, at least in the short term and in the direct sense of providing immediate remedies. However, as discussed below Council's power to pass general ordinances for application across the board to all landlords, tenants and residents may well come into play.

In this as in many other situations where Council may not have primary authority, its Charter-mandated responsibilities provide several options for at least publicly addressing the kinds of numerous and inexcusable tenant complaints that have been brought to Council's attention regarding Munoz Real Estate and its many assumed name LLCs. While Council may not be able

¹ By writing this requested report, LPD is not expressing any opinion as to the facts of any allegations; the report addresses available policy options based on assumed facts set forth in complaints and the administration's Munoz spread sheet.

to simply and directly exercise its legislative authority to immediately sanction such a rogue landlord, it does have powers that can be brought to bear on the process of bringing it to heel.

An Overview of Council's Charter-Mandated Responsibilities

1. Investigations

Article IV of the City Charter spells out Council's basic roles and responsibilities in City government. Pursuant to Section 4-109, "The City Council may make investigations into the affairs of the City and the conduct of any City agency." This is the broadest responsibility the Charter grants to the local legislative body. It has direct application to the situation involving Munoz Real Estate and their tenants.

In receiving public comments and other forms of communication by tenants complaining about Munoz, Council has effectively been asked to investigate such "affairs of the City" involving Munoz. Council has already requested and received certain materials, primarily a spreadsheet of Munoz tenant complaints and violations from the Buildings, Safety Engineering and Environment Department (BSEED) regarding the status of hundreds of Munoz blight tickets.

This referral was prompted mostly by the partial, confusing and equivocal responses repeatedly received from BSEED and other representatives of the administration to this initial query and investigation, and to the continuing frustration of residents and Council members with the quality of such responses by representatives of the administration regarding hundreds of blight violations apparently involving Munoz properties.

It is important to recognize that, although the process is often neither easy nor smooth, Council's investigations in this regard are intended to have real teeth. Pursuant to Section 4-110 of the Charter, "The City Council may subpoena witnesses, administer oaths, take testimony and require the production of evidence in any matter pending before it or any of its committees. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the City Council shall apply to the appropriate court." Council is not required or authorized to passively accept nonresponsive information and statements from the administration, and take no action for the benefit of the City and residents in such contexts.

ACTION ITEM: Council may wish to direct more thorough, structured, detailed and intentional information requests to BSEED, roughly analogous to formal discovery requests by an adversary in litigation. LPD offers an initial draft of such a request for Council's consideration. It is intended to show seriousness of purpose, send a message to the administration refusing to accept the unhelpful generalities that have been provided so far, and generate more detailed and useful information. That draft request for more detailed information regarding Munoz Real estate is attached to the end of this report for Council's consideration. Following up with focused inquiries regarding any responses to information requests like this should hopefully shed light on the situation that has not yet been apparent in previous line items regarding Munoz on the agenda of the Public Health and Safety Standing Committee.

2. Enacting or Amending Ordinances

In addition to investigating City affairs, pursuant to Section 4-114, “In accordance with state law, an ordinance shall be enacted to provide a permanent rule for the conduct of government... In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City shall be by ordinance which... Establish a prohibition for violation of which a penalty is imposed based upon a finding that a person committed a misdemeanor, civil infraction, or blight violation...”

ACTION ITEM: After investigating and studying the matter, if the local legislative body identifies any gaps in existing law, Council may propose and adopt ordinance or amendment language to fill those gaps, to the extent it would not be inconsistent with applicable state or federal law or regulations. It would be premature for LPD to advocate any particular measure before such an investigation can be conducted, but the potential should be kept in mind in the investigation process, and a couple relatively specific approaches are suggested below.

3. Budget and Contracts

Although pursuant to Sections 4-112 and 4-122, Council has approval authority over disposition of any City property and contracts, at this time it does not appear that this Charter-mandated power applies to this situation. If the administration proposed to sell City property to Munoz Real Estate, that might have to be revisited.

Council’s power to approve the annual City budget, pursuant to Section 8-208 of the Charter, is clearly (if indirectly) applicable to this situation. While it would be premature to suggest any particular budget strategy or provisions, investigating and considering the information provided in the process may yield insight into needed amendments. Council may wish to consider how its powerful budget approval authority might affect the administration’s actions vis-à-vis Munoz.

ACTION ITEM: Develop a nuanced understanding of the resources and authorities the administration may need to deal with a rogue landlord, and include such strategies in future budget proceedings.

Housing Ordinances

Rental Property Registration Ordinance

The rental property registration ordinance requires that landlords obtain a Certificate of Registration of Rental Property, pursuant to procedures and standards set forth in the ordinance. In particular, “...[I]t shall be unlawful for an owner to allow any unoccupied rental property to be occupied, or to collect rent from a tenant for occupancy of a rental property, during or for any time in which there is not a valid Certificate of Compliance for the rental property. Tenants of an occupied rental property that lacks a Certificate of Compliance shall pay the rent that would otherwise have been due into an escrow account, which is established by the Buildings, Safety Engineering, and Environmental Department with a third-party financial institution.”

Pursuant to the ordinance, a landlord has 90 days from the date of notice of noncompliance to bring their property up to code and obtain a certificate of compliance. City Code, Sec. 8-15-82(d) The ordinance's detailed requirements for lead safety in housing are noted, but outside the scope of this referral (except to the extent some of the properties may also have lead abatement issues that have not yet been disclosed). There are no requirements that expressly call out landlords with multiple properties in violation of minimum conditions. Subject to further investigation and legal research, Council may wish to consider amending this ordinance to deal with the kind of situation represented by Munoz as an alleged rogue landlord with multiple violations and poor responsiveness to tenant complaints.

Right to Counsel Ordinance

Counsel has passed, and the administration has stated it is seeking to fully fund, the ordinance providing paid counsel in eviction actions for eligible tenants and homeowners. Similar to the contemplated action under the Rental Property Registration Ordinance, if Council's investigation in this matter identifies any issues involving such rogue landlords with dozens or hundreds of violations that tenants or homeowners are not fully able to raise and litigate in the context of eviction proceedings, amending the Right to Counsel Ordinance to close such a gap might be appropriate.

ACTION ITEM: Identify gaps, if any, in the existing ordinances for dealing with recalcitrant landlords with hundreds of violations. Does the City need more authority to deal with landlords who flout the law and disregard their tenants' health, safety and rights? If so, Council may wish to consider amending the ordinance, or enacting other legal authority targeting this problem. In particular, the City's authority to debar irresponsible contractors (see, e.g., Sec. 6-308 of the Charter and Art. V, Div. 10 of the City code, Sec. 17-5-351 through Sec. 17-5-366) might serve as a general model for an ordinance debarring landlords from receiving a Certificate of Registration of Rental Property under standards and procedures to be developed pursuant to the above investigation.

4. Next Steps

Council may wish to deliberate and/or request additional research by staff. LPD recommends, and pursuant to the Public Health and Safety standing committee's request, the attached request for information be further revised, if necessary, and transmitted to BSEED. In the process of securing the requested information, Council Members may also wish to seek ideas for amending these ordinances to deal with a landlord like Munoz Real Estate.

If Council has any additional questions or concerns regarding this or related landlord/tenant matters, LPD will be happy to perform further research and investigation upon request.

ADDENDUM:

**REQUEST FOR PRODUCTION OF FULL AND COMPLETE WRITTEN RESPONSES
AND DOCUMENTS REQUESTED FROM THE BUILDINGS, SAFETY
ENGINEERING AND ENVIRONMENT DEPARTMENT (BSEED) REGARDING
MUNOZ REAL ESTATE.**

1. How many rental properties in the City of Detroit are owned by Munoz Real Estate or any of its affiliates or Limited Liability Co. (LLC) assumed names (hereinafter “Munoz”)? Please provide a written, itemized and current list of these properties.
2. How many of the above Munoz properties have received blight tickets? Please provide a written, itemized list of these tickets.
3. What, if anything, has BSEED done to remedy and/or sanction Munoz for each, or all of the above conditions leading to issuance of a blight ticket? What is the status of each of those proceedings? Please provide copies of all relevant enforcement documents relating to each of the above blight tickets and enforcement proceedings.
4. Does the Rental Property Registration Ordinance authorize the City to prohibit a rogue landlord like Munoz from continuing to rent property to tenants? If so, please explain the process in detail. If not, why not?
5. What, if any authority does the City have to deal with a rogue landlord who routinely flouts its legal obligations and exposes tenants and residents to dangerous, unhealthy conditions? What is the status of applying any such tools to Munoz?
6. Has any Munoz property ever been denied a Certificate of Compliance? Has any City inspection of any Munoz property ever identified any violation that would be a basis to deny or revoke a Certificate of Compliance? Please provide a detailed description of the facts and circumstances of any such denial, violation, or revocation affecting a Munoz property.
7. Are there other large landlords in the City with records as bad, or worse than Munoz? How many? Who are they? What, if anything, has the City done to address their violations?
8. What is the administration’s strategy for dealing with Munoz or any other landlord(s) identified in response to the previous request # 7? What is the status of such efforts, if any?
9. Have any enforcement gaps been identified in practice of the application of either the Real Property Registration Ordinance or the Right to Counsel Ordinance, as they pertain to large landlords in the City? If so, please explain in detail.