

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2013-5

No. 99

**AN ORDINANCE IN AMENDMENT OF CHAPTER 13 OF
THE CODE OF ORDINANCES ENTITLED "HOUSING"**

Approved March 18, 2013

Be it ordained by the City of Providence:

The Code of Ordinances of the City of Providence, Chapter 13, is hereby amended as follows:

ARTICLE I, IN GENERAL

Sec. 13-1 . Title of chapter.

This chapter shall be known as - Housing

Sec. 13-2 . Statement of policy.

It is hereby declared that there exists in the city numerous dwellings, and dwelling premises and structures which are substandard in one or more important features of structural safety, sanitary facilities and maintenance, and healthful occupancy and hot water facilities; and that these conditions together with the inadequate provision for light and air, insufficient protection against fire, insanitary conditions, lack of proper heating, overcrowding of dwellings and structures, deterioration and disrepair of dwellings and structures and dwelling premises and the occupancy of unfit dwellings and structures, endanger the health, safety, morals, and general welfare of the community, and give impetus to the continuation, extension and aggravation of urban blight and decay. It is further declared that the establishment and enforcement of minimum standards for dwellings, dwelling premises and structures, and the rehabilitation of housing are essential to the public health, safety, and general welfare.

Sec. 13-3 . Purpose of chapter.

The purpose of this chapter shall be to protect the public health, safety and welfare by establishing minimum standards governing the condition and maintenance of all dwellings, dwelling premises and structures; establishing minimum standards governing utilities and facilities and other physical things and conditions essential to make dwellings and structures safe, sanitary, and fit for human habitation; fixing certain responsibilities and duties of owners, operators, and occupants of dwellings, dwelling premises and structures; and fixing the conditions whereby certain dwellings and structures may be declared unfit for occupancy and condemned for human habitation; and fixing penalties for violations of the provisions of this chapter.

In any case where a provision of this chapter or of any regulation adopted pursuant thereto is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or any regulation adopted pursuant thereto, or any other ordinance, code or regulation of the city, the provision which establishes the higher standard for the promotion of the health and safety of the people shall prevail.

ARTICLE II, MINIMUM HOUSING STANDARDS

Sec. 13-5 , Enforcement of Rhode Island Property Maintenance Code

The City of Providence shall follow and enforce the state of Rhode Island Property Maintenance Code codified by the Property Maintenance Code for the State of Rhode Island hereinafter referred to as SBC-6 and administered by R. I. Gen. Laws 23-27.3- 100 et seq.

Sec. 13-6 , Minimum housing standards division—Created, designated.

There is hereby created within the executive department a division of minimum housing standards, hereinafter referred to as "the division," for the purposes of enforcing the provisions of this chapter and such other matters as may be appropriately assigned to it.

Sec. 13-7 , Same—Administration of divisions and delegation of powers.

The division of minimum housing standards shall be operated under the general direction of the urban renewal coordinator, and under the immediate supervision and control of a director appointed by the mayor, subject to the approval of the city council, and to serve at the pleasure of the mayor. The director may delegate any of his powers or duties under the provisions of this chapter to any properly qualified employee of the division.

Sec. 13-8 , Enforcement of minimum housing standards.

The code enforcement division is hereby transferred to and under the jurisdiction and control of the department of building inspection; and all the powers and duties of the said code enforcement division, including, but not by way of limitation, those vested under the minimum standards housing ordinance, so-called, (and which were heretofore vested in the director of the department of planning and urban development) are hereby transferred and vested in the director of the department of building inspection.

Sec. 13-9 , Appointment and duties of chief inspector and other personnel.

The chief inspector of the division of minimum housing standards shall be appointed by the director subject to the approval of the mayor. The chief inspector shall be the responsible head of the inspection staff and shall exercise such authority as shall be delegated to him by the director. All other personnel of the division shall be appointed by the director, subject to the prior approval of the personnel director.

Sec. 13-10, Appointment and duties of hearing officer.

The director shall serve as the hearing officer of the division of minimum housing standards and as such shall be responsible for the scheduling, conduct and recording of hearings as provided for in sections 101.1 through 107.6 of the SBC - 6; except that the director may delegate these duties to the chief inspector or any other qualified employee of the division.

The personnel of the division of minimum housing standards shall consist of a director, a chief inspector and such other inspectors, clerks and other personnel as may be necessary for the proper organization of the division and for the proper enforcement of this chapter.

Sec. 13- 12, Conflict of permits and licenses with chapter.

All departments, officials and employees of the city which have the duty or authority to issue permits or licenses in regard to the construction, installation, repair, use or occupancy of structures, dwellings, dwelling premises or dwelling equipment or facilities shall conform to the provisions of this chapter, and no permit or license for any construction, installation, repair, use or occupancy shall be issued if such would be in conflict with the provisions of this chapter except as provided in 13-4 of this chapter. Any permit or license issued in conflict with the provisions of this chapter, except as provided in section 13-4 of this chapter, shall be null and void.

Sec. 13- 13, Application to zoning board of review for variance, exception.

Whenever a compliance order issued pursuant to the provisions of this chapter requires an extension of a building or structure into a required rear yard or side yard, or the execution of any compliance order will result in any violation of the zoning ordinance, the director is authorized to apply to the zoning board of review for a variance or exception.

Sec. 13-14 , Referral of housing violations not covered by chapter but by standards of other codes.

Whenever the director determines that the condition of a structure, dwelling or dwelling premises or any part thereof is in violation of any zoning, building, fire or health ordinance or regulation adopted pursuant thereto, or any other ordinance, or code or regulation of the city governing the condition and improvement of housing, which is not provided for by this chapter, or which is provided for by a higher standard of such other ordinance, code or regulation, according to Section 13-4 of this chapter, he shall refer such violation to the appropriate authority.

Sec. 13- 15. Prosecution of existing violations.

This chapter shall not affect violations of any other existing ordinance, code or regulation of the city, and such violations shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

Sec. 13- 16. Violations and penalties.

(a) Any person who violates any provision of this chapter, or any provision of any rule or regulation adopted pursuant to authority granted by this chapter will be punished pursuant to SBC-6, R. I. Gen. Laws 23-27.3- 100 et seq., and Chapter 1 Section 1-10 of the Providence Code of Ordinances

(b) The city solicitor shall, upon complaint of the director, institute injunction, abatement or other appropriate actions or proceedings at law or in equity to restrain, prevent, enjoin, abate, correct or remove such violations.

(c) The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Sec. 13- 17, Recording notices and orders; liability of persons having notice of proceedings.

Whenever a notice of violation or a compliance order has been issued for a violation of this chapter or any rule or regulation adopted pursuant thereto, the director may file in the office of the recorder of deeds a copy of the notice or order. Such notice or order shall be recorded in the same manner as "lis pendens" notices, and such recording shall be constructive notice to any purchaser or encumbrancer of the real property affected thereby. Notwithstanding any other provisions of this chapter, any person purchasing or otherwise acquiring any interest in any real property and having actual or constructive notice of any proceedings instituted under the provisions of this chapter shall be immediately subject to and bound by any such proceedings and to any compliance order entered with respect to the real property.

ARTICLE III, Affordable housing trust fund

Sec. 13- 18. - Allocation system for the affordable housing trust fund.

(a) As used in this section, "affordable housing" means housing that costs no more than thirty (30) percent of a household's monthly income, including monthly rent, mortgage payments and utilities.

(b) Monies designated for or allocated by the Providence Housing Trust shall be used solely for the purpose of funding construction, development or financing mechanisms of affordable housing for families earning less than one hundred twenty (120) percent of the median income, for the city, as determined actually or periodically estimated by the official federal census or the United States Department of Housing and Urban Development, for rental or home ownership, with the exclusion of funds under contract upon the date of passage of the ordinance from which this section derives.

(c) All payments made to the city redevelopment agency for payment to the Providence Housing Trust under tax stabilization agreements shall be deposited in the Providence Housing Trust without exception. These payments shall be used in strict conformance with the rules and regulations of the Providence Housing Trust.

(d) Affordable housing projects financed, in part or in whole, by the Providence Housing Trust must result in units which remain affordable, as defined in subsection (a), for at least thirty (30) years.

(e) The director of the department of planning, or assignee, shall make a quarterly report on the activities and status of the Providence Housing Trust to the city council.

ARTICLE IV, RESIDENTIAL OWNER-OCCUPIED MORTGAGE FORECLOSURE INTERVENTION

Sec. 13- 19. - Definitions.

Homeowner shall mean an individual who owns and resides in residential real property located in the City and County of Providence, and for whom such residential real property is a principal residence.

Loan/mortgage conciliation conference coordinator shall mean an individual employed by a HUD-approved independent counseling agency to facilitate the discussion between the homeowner/mortgagor and the lender/mortgagee.

Loan/mortgage conciliation conference shall mean the formal discussion and negotiation taking place at the call of the loan/mortgage conciliation conference coordinator between the homeowner/mortgagor and the lender/mortgagee.

Lender shall mean an entity which has advanced funds secured by a mortgage on residential premises, and recorded in the land evidence records of the city.

Residential premises/property shall mean real property that is owner-occupied as an owner's principal residence, located within the City and County of Providence, that is either a single-family dwelling or a structure containing not more than four (4) residential units, and shall also include a residential condominium unit or a residential co-op unit occupied by an owner as an owner's principal residence. Property deemed abandoned or under order for demolition as a result of fire or other calamity by the city's department of inspection and standards is not considered owner-occupied for the purpose of this article.

Rules and regulations shall mean any rules adopted by the city necessary for the proper enforcement of this article to interpret and secure its intent.

The city shall mean the City of Providence.

The parties shall mean the homeowner/mortgagor and the lender/mortgagee.

Sec. 13- 20. - Statement of policy.

It is hereby declared that residential mortgage foreclosure actions, caused in part by so called sub-prime mortgage lending and predatory lending practices as well as rising interest rates, unemployment and underemployment, have negatively impacted a substantial number of homeowners in the city, creating a foreclosure crisis which endangers the economic stability of the city and the health and safety of its citizens, as the increasing numbers of foreclosures lead to increases in unoccupied and unattended buildings in the city and give impetus to the continuation, extension and aggravation of urban blight and decay. More importantly, foreclosures cause the unnecessary and unwanted displacement of a considerable number of homeowners and tenants who desire to live and work in the city.

Sec. 13-21 . - Purpose.

The city's purpose in sections 13-19 through 13-23, inclusive, is to protect the public health, safety and welfare by providing early, HUD-approved independent counseling agency-supervised intervention in residential owner-occupied mortgage foreclosure cases which will assure timely determination of eligibility under various federal, state and local programs established to facilitate loan work-out and other solutions to permit residential homeowners, where possible, to retain their properties and permit lenders to move forward to auction/sale of the properties and recordation of a foreclosure deed upon conclusion of the process.

Sec. 13- 22. - Filing/recording of foreclosure deed.

Except as may be provided in this division, from and after the effective date of this division, no deed offered by a lender/mortgagee to be filed with the recorder of deeds as a result of a mortgage foreclosure action shall be accepted and/or recorded in the land evidence records of the city until and unless the following events have occurred:

- (1) The lender/mortgagee shall provide written notice to the city of its intent to foreclose on the subject residential property at the same time it issues notice to the homeowner/mortgagor of the foreclosure action. Such notice must include plat and lot information.
- (2) Said notice shall be filed by the lender/mortgagee with the recorder of deeds.
- (3) Following the filing of such notice, the parties shall participate in a mandatory loan/mortgage conciliation conference at a location mutually convenient to the parties. Telephone participation by the lender/mortgagee is acceptable.
- (4) Said conciliation conference shall be scheduled at a time and place to be determined by the conciliation conference coordinator, but not later than thirty (30) days following the mailing of the notice of intent to foreclose. The parties will be noticed by certified and first class mail.
- (5) Prior to the scheduled conciliation conference, the homeowner/mortgagor will be assigned a loan counselor to be provided by a HUD-approved independent counseling agency.
- (6) The homeowner/mortgagor shall cooperate in all respects with the housing counseling agency, providing all necessary financial and employment information. The homeowner/mortgagor shall complete any and all loan resolution proposals and applications as appropriate.

(7) The conciliation conference will require the exchange of information provided as required by subsection (6) to the representative of the lender/mortgagee.

(8) If after two (2) attempts by the conciliation conference coordinator to contact the homeowner/mortgagor, the homeowner/mortgagor fails to respond to the conference coordinator's request to appear for the conciliation conference, or the homeowner/mortgagor fails to cooperate in any respect with the requirements outlined in this division, the requirements of the ordinance will be deemed to be satisfied upon verification by the HUD-approved independent counseling agency that the required notice was sent; and if so, a certificate will be issued immediately by the HUD-approved independent counseling agency authorizing the lender/mortgagee to proceed with the foreclosure action including recording the foreclosure deed.

(9) If, it is determined after a good faith effort made by the lender/mortgagee at the conciliation conference with the homeowner/mortgagor, that the parties cannot come to an agreement to re-negotiate the terms of the loan in an effort to avoid foreclosure, such good faith effort on behalf of the lender/mortgagee shall be deemed to satisfy the requirements of this article. A certificate certifying such good faith effort will be issued immediately by the HUD-approved independent counseling agency authorizing the lender/mortgagee to proceed with the foreclosure action to including recording the deed. Such a certification will be the form of a document to be filed along with all other relevant documents with the recorder of deeds.

(10) Upon the demand of the lender/mortgagee at any time following completion of the conciliation conference, if the lender/mortgagee is not invoking subsection (8), the HUD-approved independent counseling agency will immediately certify that the provisions of this division have been met.

(11) The parties shall complete the process required by this division within a period of sixty (60) days from the initial notice provided in [subsection] (1).

(12) Cases involving premises which are not owner-occupied or which are not residential are not subject to the mandatory loan/mortgage conciliation conference and may proceed directly to foreclosure and recordation of the deed concerning such property-presuming compliance with sections 13-24 through 13-26.

(13) Notwithstanding the foregoing, any lender/mortgagee which is headquartered within the State of Rhode Island and which services its own mortgages shall be deemed to be in compliance with the requirements of this section if:

a. The lender/mortgagee provides homeowners a forbearance relief program that is consistent with the forbearance relief requirements applicable to FHA-Insured Mortgages, as set forth in Chapter 8 of HUD Handbook 4330.1 Rev. 5, Administration of Insured Home Mortgages, as the same may be amended from time to time; and

b. The deed offered by a lender/mortgagee to be filed with the recorder of deeds as a result of a mortgage foreclosure action contains a certification that the provisions of this subsection have been satisfied.

Sec. 13- 23. - Penalties.

No deed offered by a lender/mortgagor to be filed with the recorder of deeds shall be accepted and/or recorded in the land evidence records of the city if it is determined that the lender/mortgagor has failed in any respect with the requirements and provisions of this division. In the event that a foreclosure has taken place without affording the homeowner of the relief afforded by this division, the recorder of deeds shall assess a penalty of two thousand dollars (\$2,000.00) in addition to any other penalties and fees that may be assessed prior to recording the foreclosure deed. The rights of the homeowner to any redress afforded under the law are not abridged by this section.

ARTICLE V, NOTICE OF FORECLOSURE TO BONA FIDE TENANTS OF RENTAL RESIDENTIAL PROPERTY

Sec. 13- 24 . - Definitions.

A *bona fide tenant* shall mean a person who has entered into a written or oral rental agreement with a homeowner or landlord (mortgagor) with respect to a dwelling unit of a mortgaged residential premises no less than thirty (30) days prior to the foreclosure of the mortgagor's interest. Neither the mortgagor nor any member of his or her immediate family is a *bona fide tenant*. The protections afforded a bona fide tenant exist regardless whether the residential premises is or is not owner-occupied.

Rules and regulations shall mean any rules adopted by the city necessary for the proper enforcement of this division to interpret and secure its intent.

The city shall mean the City of Providence.

Sec. 13- 25. - Notice to bona fide tenants.

Effective upon passage of this division, no bona fide tenant legally occupying a rental residential property within the city shall be forced to vacate that property in the event of a mortgage foreclosure action upon that property unless and until the following series of actions are taken:

(1) Where any dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide tenant, and where the foreclosed mortgagor had provided essential services including, without limitation, heat, running water, hot water, electric, sewer or gas to such tenant, any successor in interest to the foreclosed mortgagor shall continue to provide the same essential services under the same terms and conditions to the tenant.

(2) A successor in interest to a mortgagor shall provide notice to each bona fide tenant, as defined in section 13-24, by mailing an envelope addressed to "Resident of property previously subject to foreclosure sale" and by posting, in the same manner required for posting the notice of sale on the property to be sold, a written notice in both English and Spanish stating the name and address of the successor in interest, and/or managing agent so that the tenant may know to whom the ongoing rental payments should be made.

(3) Where any dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide tenant of the foreclosed mortgagor, the bona fide tenant assumes a month-to-month periodic tenancy governed by the provisions of R.I.G.L. tit. 43, ch. 18, except in those instances in which the bona fide tenant has entered into a written rental agreement with a homeowner or landlord (mortgagor) with respect to a dwelling unit of a mortgaged residential premises. In such instances tenancy is assumed for the duration specified in the written agreement.

(4) The lender/mortgagee shall provide notice to each bona fide tenant, as defined in section 13-19, by mailing an envelope addressed to "Resident of property subject to foreclosure sale" and by posting, in the same manner required for posting the notice of sale on the property to be sold, at the same time notice is provided to the mortgagor, a written notice in both English and Spanish: (i) stating that the real estate is to be sold in foreclosure, which may affect the tenant's right to continue to live in the property; (ii) stating the date, time and place of sale; (iii) providing the address and telephone number of Rhode Island Legal Services; and (iv) providing the name, address and telephone number of HUD-approved counseling agencies in Rhode Island. Failure of the lender/mortgagor to provide notice as provided herein shall not affect the validity of the foreclosure; however, no successor in interest to the mortgagor shall be permitted to initiate an action for possession of the premises against such bona fide tenant until notice as required herein, in addition to the notice required in subsection (2), is provided.

Sec. 13- 26 . - Penalties.

Any failure of a lender/mortgagee or successor in interest to a mortgagor to comply with the terms of this division will be penalized by a fine of not less than one thousand dollars (\$1,000.00) per offense.

ARTICLE VI, HOUSING BOARD OF REVIEW

Sec. 13- 27, Established; general powers and duties.

There shall be a housing board of review which is authorized to hear and decide appeals from compliance orders.

The board shall have the power to reverse or affirm wholly or partly or to modify any order of the director; and in specific cases to authorize such variance in the application of the terms of this chapter, where owing to unusual conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

Sec. 13- 28, Composition; appointment of members.

The housing board of review shall consist of five members appointed by the mayor of the city; subject to the approval of the city council.

Sec. 13- 29, Qualifications of members.

Each member of the housing board of review shall be a resident of the city, and one member shall be a qualified builder, or a licensed architect, or a licensed professional engineer; and another shall be a qualified doctor of medicine or of public health. No member of the board shall serve on any other appointive board of the city; provided however, that the chairman of the housing board of review shall be a member of the mayor's housing advisory council whenever such council shall be appointed.

Sec. 13- 30, Officers.

The mayor shall select one of the members of the housing board of review to serve as chairman, and the board shall select one of its members to serve as vice-chairman; and the mayor shall appoint subject to the approval of the city council a secretary of the board who shall keep a detailed record of its business and proceedings.

Sec. 13- 31, Terms of members; filling vacancies.

One member of the housing board of review first constituted shall be appointed for five (5) years, one for four (4) years, one for three (3) years, one for two (2) years and one to serve for one (1) year; each new member shall serve for five (5) years and until his successor has been appointed and qualified. The mayor with the approval of the council shall appoint a member of the board to fill any unexpired term if a vacancy occurs.

Sec. 13-32, Compensation of board members.

The compensation of the chairman of the housing board of review shall be sixty dollars (\$60.00) per meeting, but not to exceed twelve hundred dollars (\$1,200.00) per year, and the compensation for each of the other members shall be fifty dollars (\$50.00) per meeting, but not to exceed one thousand dollars (\$1,000.00) per year. Compensation for any meeting of the board shall be paid only for actual attendance.

Sec. 13- 33, Disqualification of members from certain matters.

No member of the housing board of review shall pass on any matter in which he has a business or a personal interest.

Sec. 13- 34, Meetings.

The housing board of review shall meet at least once a month and at other times upon the call of the chairman. Notice of the meeting to hear an appeal shall be given the appellant, the director, and the members of the board, at least ten (10) days before the holding of the meeting, except for a hearing on an appeal involving a restraining order at which time notice need not exceed forty-eight (48) hours. Upon receipt of notice of an appeal the director shall forward immediately to the secretary of the board all pertinent records.

Sec. 13- 35, Right to appeal to board from compliance order.

Any person upon whom a compliance order has been served may appeal from the compliance order to the housing board of review.

Sec. 13- 36, Grounds for appeal from compliance order.

Application for an appeal provided for in section 13-35 may be made whenever it is alleged that the compliance order does not conform with the true intent of this chapter or of the rules and regulations adopted pursuant thereto; that the compliance order is contrary to law; that the provision of this chapter do not fully apply; or that in unusual conditions, unnecessary hardship will result from the literal enforcement of the provisions of this chapter.

Sec. 13- 37, Filing appeal from compliance order.

Any eligible person desiring to take an appeal shall file in the office of the housing board of review, within ten (10) days after service of the compliance order, a written appeal including a brief statement of the reasons therefor, and a detailed statement of the facts supporting the appeal. A notice of the appeal shall be forwarded immediately to the director by the secretary of the board.

Sec. 13- 38, Schedule of appeal fees.

An appeal fee, in accordance with the following schedule, shall be paid upon the filing of any application for appeal before the housing board of review:

- (a) The appeal fee shall be five dollars (\$5.00) whenever an appeal is taken from a compliance order issued as a result of hearing before the director;
- (b) The appeal fee shall be ten dollars (\$10.00) whenever an appeal is taken from a compliance order issued after failure to request a hearing before the director, or after failure to appear at such hearing.

Upon receipt of the appeal fee by the board, said fee shall be paid to the city collector.

Sec. 13- 39, Effect of filing appeal.

An appeal to the housing board of review shall stay all proceedings under the compliance order from which such appeal has been taken, except that the director may certify to the board after receipt of the notice of the appeal, as provided in sections 13-36 and 13-37 of this chapter, that by reason of the facts stated in the certificate, any stay of proceedings would in his opinion cause a direct hazard or immediate peril to the health or safety of the occupants of a dwelling or structure or of the public, and in such event proceedings shall not be stayed except by restraining order granted by the chairman or the acting chairman of the board on application therefor by the appellant, upon notice to the director, and on due cause shown, or by a court of competent jurisdiction. Whenever a restraining order has been issued, the appeal shall be given priority over all other matters before the board, and shall be promptly heard and decided.

Sec. 13- 40, Quorum for hearing appeal.

In order for the housing board of review to hear an appeal a quorum of three (3) members of the board must be present. When a quorum is not present, the hearing of the appeal shall be postponed until such time as a quorum is present. The board shall provide for a new date for the hearing of the appeal in accordance with the provisions of section 13-34 of this chapter.

Sec. 13- 41, Conduct of hearings on appeals.

All hearings of appeals by the housing board of review shall be "de novo". All hearings shall be public, and the appellant, his representative, the director and any other person whose interests may be affected by the matter on appeal, and who files a written entry of appearance shall be given an opportunity to be heard. Written entry of appearance at such hearing shall fulfill the requirements for service of any notice or order by the director.

Sec. 13- 42, Administering oaths and compelling attendance of witnesses.

The chairman of the housing board of review or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

Sec. 13- 43, Vote required to reverse, modify order, authorize variance.

A concurring vote of a majority of the members of the housing board of review present at a hearing shall be necessary to reverse or modify any order or decision of the director, and to authorize a variance in the application of any of the provisions of this chapter as provided in section 13-27 of this chapter. In the event of a tie vote of the members of the board present at the hearing, the order or decision of the director shall be deemed to have been sustained.

Sec. 13- 44, Minutes, records of proceedings, decisions.

All decisions of the housing board of review shall be in writing. The board shall keep clear and detailed minutes of all its proceedings including its decisions and the reasons therefor and the vote of each member participating therein and the absence of a member or his failure to vote. Such record, immediately following the board's decision, shall be filed in the office of the board and shall be a public record. Notice of the board's decision shall be promptly furnished to the appellant, his representative, any person who has filed a written entry of appearance, and to the director, and the director shall take immediate action in accordance with the decision of the board.

Sec. 13- 45, Review of proceedings of board.

Proceedings of the housing board of review shall be conclusive with respect to questions of fact and may be reviewed only on questions of law by courts of competent jurisdiction as provided in section 13-46 of this chapter.

Sec. 13- 46, Judicial review of decisions of board.

(a) Any person including the director aggrieved by any decision of the housing board of review may present to the Supreme Court a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the board. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the housing board of review to review such decision of the board and shall prescribe therein the time within which a return thereto must be made, which shall be not less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may on application, upon notice to the board and on the due cause shown, grant a restraining order.

(b) The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show grounds of the decision appealed from and shall be verified.

(c) If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a master to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

(d) The court may reverse or affirm wholly or partly or may modify the decision brought up for review.

IN CITY COUNCIL
FEB 21 2013

FIRST READING
READ AND PASSED

Lowell Hayes CLERK
ACTING

I HEREBY APPROVE.

Agul Taveira
Mayor

Date: 3/18/13

IN CITY
COUNCIL
MAR 07 2013
FINAL READING
READ AND PASSED

William J. Steer
PRESIDENT
Agul Taveira
CLERK