



Date: February 5, 2015

To: Senate Commerce Committee

From: Larry R. Baer
Legal Counsel

Re: SB 84
Testimony in Support

Thank you for allowing me to appear before you today and present testimony in support of Senate Bill 84 on behalf of the League of Kansas Municipalities and its member cities.

SB 84 would change current law regarding abandoned structures by expanding the definition of abandoned property. The expanded definition would include residential property that has been vacant for at least 180 days and has a “blighting influence” upon the surrounding property. The bill includes a definition of “blighting influence”. Existing law would also be amended to permit the rehabilitation of abandoned property to be used for community development purposes. A major change in the existing language would be to allow cities to petition the district court for an order of temporary possession of property. This would be done in the same fashion as now permitted of “qualified organizations”.

Because of recent and, in some locations, continuing downturns in the economy, cities are seeing more properties standing vacant. Too often, this leads to the structures falling into disrepair or becoming sanctuaries for vagrants or the homeless. This leads to a disproportional increase in police and fire calls to these properties. Failure to pay property taxes is also a result. As these properties fall further into disrepair, they have a blighting effect upon the surrounding properties and the potential to become dangerous structures as they continue to deteriorate.

Cities have long had tools available to them to address issues when a dangerous structure is involved, but they have had limited resources to deal with abandoned property. SB 84 would give cities the same ability to deal with abandoned and blighted real estate as they now have when dealing with dangerous structures. SB 84 would allow rehabilitation action to be taken before the property became a “dangerous structure”.

IN previous sessions when a similar bill was heard, there were concerns expressed about owners losing possession of properties without notice, etc. Such concerns are really unfounded. Current law would require that before either a “qualified organization” or a city

could petition for temporary possession that at least 20 days written notice has to be given to all parties of interest. The petition to be filed in district court must be verified and allege that the property is abandoned and state the blighting conditions that exist. Summons and service of the petition under the Kansas Code of Civil Procedure is required. An evidentiary hearing is conducted in district court and the court must find that the property is both abandoned and causing a blighting effect before an order of temporary possession will be issued by the court. Current law also gives a party up to 180 days to cure code violations and pay any delinquent property tax if this affirmative defense is filed as part of the defendant's answer in district court. Thus, there is no "action without notice" or by "stealth of night" where a landowner is deprived of possession of its property without due process.

Thank you for allowing me to testify on this matter. For these reasons we ask for your support of SB 84 and that you pass it out favorably.

I will be happy to stand for questions at the appropriate time.