



BUSINESS

Milwaukee officials hail court ruling on 'zombie' properties



Justice Ann Walsh Bradley

By *Cary Spivak* of the *Journal Sentinel*

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The Wisconsin Supreme Court this week gave Milwaukee officials a new weapon in the ongoing fight against [zombie homes](#) — the abandoned foreclosed properties that attract criminals, drive down property values and add blight to struggling neighborhoods.

In a [unanimous decision](#), the justices ruled that a lender who files a foreclosure action must follow through and sell the property if a court declares that the property is abandoned. The decision written by Justice Ann Walsh Bradley rejected the Bank of New York's argument that "it cannot be required to sell a property" after a foreclosure action is filed and a court rules the property was abandoned.

"The decision is a very big deal," said Amanda Adrian, an attorney at the Legal Aid Society of Milwaukee, which submitted a friend of the court brief. "This is a problem that we've been struggling with for a number of years because the banks have been very adamant in saying they cannot be forced to do anything — no way, no how."

Mayor Tom Barrett said the decision would help the city battle the growing problem of zombie homes — properties abandoned by homeowners after a lender files a foreclosure action then opts not to sell



"It's a very significant decision for the city of Milwaukee for taxpayers and for fairness," said Mayor Tom Barrett, who along with other city officials has been raising concerns about the [zombie homes since at least 2009](#).

Art Dahlberg, commissioner of the city's Department of Neighborhood Services, estimates there are fewer than 300 zombie properties in the city. "It's a very large issue for the people who live adjacent to the properties," Dahlberg said. "For the people who live next door there is the crime problem and the fear (the properties) will catch fire."

The case decided by the Supreme Court was filed by Legal Action of Wisconsin and involved Shirley Carson, an elderly Milwaukee widow who defaulted on a \$52,000 mortgage that she had received from Countrywide Home Loans when she refinanced her home on Concordia Ave.

"There is no question this (case) is all about zombie homes," Barrett said.

Thinking she lost title to the property, Carson moved out of the home — not realizing that a foreclosure action is not complete unless the property is sold at a sheriff's sale. Until then, the original property owner — in this case, Carson — still has title to the property.

"She didn't know she was the owner until she started to get tickets from the city" for code violations, said April Hartman, Carson's Legal Action attorney. The city fined Hartman \$1,800, and she made monthly payments to the city of \$25, the court noted.

The scenario "is not uncommon," Hartman said. "A lot of elderly widows come in with tickets on properties they thought they had lost" in foreclosure actions.

The court noted that while the Carson home was abandoned and the foreclosure action was dormant in the court, the home's condition deteriorated.



someone started a fire in the garage."

The Bank of New York did not maintain the property even though it received an order from the city to do so, the court said.

"By Nov. 2012, more than 16 months after the judgment of foreclosure was entered, the bank had not sold the property and had no plans to sell it," Bradley wrote.

A spokesman for the bank declined to comment on the case except to note that the bank was the trustee for the mortgage holder and did not own or write the mortgage.

The Supreme Court did not say how quickly a foreclosed property must be sold except that the sale must be done in a "reasonable" time frame. It rejected the bank's argument that the sale could be held up to five years after the foreclosure action is approved by the court.

Foreclosed homes are sold in sheriff sales overseen by the county sheriff. Often, when a foreclosed home is sold at a sheriff's sale, the lender purchases the property to protect its interest. The bank generally tries to turn around and sell the property to recoup something.

Barrett said he hoped the court decision would help the city work with lenders to prevent foreclosed properties from becoming abandoned properties.

"We're not trying to bludgeon anybody," the mayor said. "We're going to use this tool to put houses back into circulation."

The city efforts will be aided by new procedures being used by Milwaukee County judges, said Danielle Bergner, a deputy city attorney. The judges last month established a system to better monitor foreclosure suits to prevent them from languishing.

About Cary Spivak

Cary Spivak does investigative business projects and covers the casino industry. He has won numerous state and national awards.

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