

House demolition on Branch Bank of Louisville property.

There has been some concern about the reason city employees are removing the partially burned houses on the Branch Bank of Louisville property. I have made that decision weighing all options available in Title 8 section 109 of the Lakewood Code.

Title 8 section 109 says: *It shall be unlawful for any person, firm, corporation, owner, or tenant to permit or suffer weeds, grass, or other vegetation to grow on and trash, **rubbish, and refuse** to accumulate on his or its property to such an extent that a nuisance is created which is injurious to the health and welfare to the inhabitants of the city.*

I have received four citizen complaints (2 by Commissioners) about these houses. One of those complaints involved children playing in the structures. There is no question that the loose debris associated with these houses represents a nuisance and possible danger to the public.

Title 8 goes on to say: *Upon such conditions existing the city manager shall notify the owner or tenant of the property of such conditions and require that they be remedied within 10 days. Such notice may be given in person or by registered mail addressed to the last known address of the owner or tenant.*

I sent both the property owner and their attorney [registered letters](#) (delivered 12/16/08) giving them 10 days to mitigate this problem. There has been no action taken by the property owner to date.

Title 8 goes on to say: *Should the owner or tenant fail to remedy such conditions within the time prescribed, the city manager is **empowered and directed** to remedy the conditions or abate the nuisance with the use of city employees or by contract with other person.*

The owner failed to remedy the condition so the city manager is “empowered and directed” to remedy the conditions. The decision to use city employees is mine to make and I did so for the following reasons.

Contracting this out would require immediate expenditure of public funds. Title 8 allows us to collect that money by billing the landowner and putting a lien against the property if not paid after 30 days. Collection of that money could take months, even years. The City Commission has asked me to monitor all spending due to the weak economy.

Public works employees are paid every week. They are currently waiting on three small water projects to be approved by the state before they can be started. (The City Commission recently deferred the Anthony project to do three small projects) These employees have the time available to remove these houses before starting the first water project. We will then bill the landowner for all costs and expenses associated with this cleanup. This will reduce the amount of expended public money since we cannot be sure how long it will take to be repaid.

City of Lakewood

Mr. Kevin M. Zemanski
Branch Banking & Trust Co.
One Riverfront Plaza
401 W. Main Street, Suite 200
Louisville, KY 40202

12/11/2008

Dear Mr. Zemanski,

The two partially burned houses located on property owned by Branch Banking & Trust Co. are a nuisance and a danger to the public. Children and/or vagrants could be injured there. High wind could blow this debris into adjacent homes as well.

The Fire Marshall was asked if the Fire Department could use the houses in a controlled burn exercise, but he declined citing environmental issues with that practice.

The City has the right to mitigate a property nuisance and remove the debris as provided in the Lakewood Municipal Code section 8-109 and Tennessee Code Annotated section 6-54-113. The City of Lakewood prefers that your firm, as the current property owner, secure the removal and proper disposal of all of the house debris within ten (10) days as provided by law. We have estimated the removal and disposal cost to be approximately \$2,940.

8-109. Health and sanitation nuisances.

(1) It shall be unlawful for any person, firm, corporation, owner, or tenant to permit or suffer weeds, grass, or other vegetation to grow on and trash, rubbish, and refuse to accumulate on his or its property to such an extent that a nuisance is created which is injurious to the health and welfare to the inhabitants of the city.

(2) Upon such conditions existing the city manager shall notify the owner or tenant of the property of such conditions and require that they be remedied within 10 days. Such notice may be given in person or by registered mail addressed to the last known address of the owner or tenant.

(3) Should the owner or tenant fail to remedy such conditions within the time prescribed, the city manager is empowered and directed to remedy the conditions or abate the nuisance with the use of city employees or by contract with other persons. Upon

completion of such work the city manager shall determine the reasonable cost and bill to the tenant or owner. Upon the failure of the owner or tenant to reimburse the city for such charge within 30 days of such notice the amount of the bill shall constitute a lien upon the property on which such expenditure was made. Said lien can be enforced by suit in any court in Davidson County, Tennessee. The provisions of this section are not exclusive but shall be cumulative.

(4) Any person, firm or corporation who shall violate any provisions of this section shall, upon conviction, be guilty of a misdemeanor and fined under the general penalty clause for the municipal code. (ord. 55)

Section 6-54-113 (b) of Tennessee Code Annotated provides that the owner of the property is entitled to a hearing:

6-54-113. Removal of vegetation and debris from certain lots –

(b) *If it is determined by the appropriate department or person as designated by the governing body of a municipality that any owner of record of real property has created, maintained or permitted to be maintained on such property the growth of trees, vines, grass, underbrush or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements, so as to endanger the health, safety or welfare of other citizens or to encourage the infestation of rats and other harmful animals, the appropriate department or person shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing.*

This notice is being given by Bobby Franklin, City Manager, City of Lakewood, 3401 Hadley Avenue, Old Hickory, TN 37138 who can be reached by phone from 8:00 am to 4:30 pm CST Monday through Friday at 615-847-2187.

Very respectfully,

Bobby Franklin
Lakewood City Manager

TITLE 8 of LAKEWOOD CODE
HEALTH AND SANITATION

8-109. Health and sanitation nuisances.

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(3) Should the owner or tenant fail to remedy such conditions within the time prescribed, the city manager is empowered and directed to remedy the conditions or abate the nuisance with the use of city employees or by contract with other persons. Upon completion of such work **the city manager shall determine the reasonable cost and bill to the tenant or owner**. Upon the failure of the owner or tenant to reimburse the city for such charge within 30 days of such notice the amount of the bill shall constitute a lien upon the property on which such expenditure was made. Said lien can be enforced by suit in any court in Davidson County, Tennessee. The provisions of this section are not exclusive but shall be cumulative.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Branch Banking + Trust Co.
 One Riverfront Plaza
 401 W. Main St
 Louisville, KY
 40202

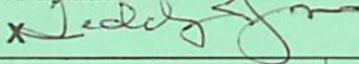
2. Article Number

(Transfer from service label)

7003 1680 0004 2505 4735

COMPLETE THIS SECTION ON DELIVERY

A. Signature


 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

 Yes

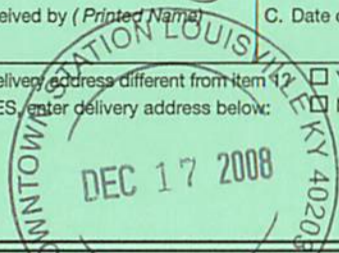
If YES, enter delivery address below:

 No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

UNITED STATES POSTAL SERVICE

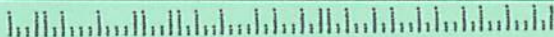


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

- Sender: Please print your name, address, and ZIP+4 in this box •

Attn: Bobby Franklin

**CITY OF LAKEWOOD
3401 HADLEY AVENUE
OLD HICKORY TN 37138**



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1. Article Addressed to:

Wyatt, Tarrance + Combs LLC
 2525 West End Ave
 Suite 1500
 Nashville, TN 37203

2. Article Number
(Transfer from s

7003 1680 0004 2505 4742

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X


 Agent
 Addressee

B. Received by (Printed Name)

Andy Fowler

C. Date of Delivery

12-16-08

 D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

UNITED STATES POSTAL SERVICE

NASHVILLE TN 372

15 DEC 2008 PM 4 T

First-Class Mail
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USPS
Permit No. G-10

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Attn: Bobby Franklin

**CITY OF LAKEWOOD
3401 HADLEY AVENUE
OLD HICKORY TN 37138**