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# Insights

## Eliminating Blight: Court Issues Opinion re: Indiana's Unsafe Building Law

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The Indiana General Assembly gave Indiana's cities, towns, and other municipal organizations a powerful tool in the fight against blight by enacting the Unsafe Building Law, or "UBL," codified by Indiana Code § 36-7-9-1 *et seq.* Generally, any municipality or county that adopts an ordinance under Section 3 of the UBL can order:

1) Vacating an unsafe building;
2) Sealing an unsafe building;
3) Extermination of vermin;
4) Removal of trash and debris;
5) Repair or rehabilitation of an unsafe building;
6) Demolition and removal of part of an unsafe building;
7) Demolition and removal of an entire unsafe building; and
8) Additional tasks relevant to the sealing of an unsafe building.[1]

However, in many cases, simply issuing an order requiring any of the foregoing actions does not result in the unsafe characteristics being abated. Therefore, typically an administrative hearing is held (hearings are *required* in many cases, such as orders for demolition (*see* Ind. Code § 36-7-9-7)). At the hearing, the local hearing authority (as set forth by Statute, Ind. Code § 36-7-9-2), affirms, rescinds, or modifies the order requiring action.[2] Assuming the owner still fails to abate the unsafe characteristics, the government can complete the work in many cases, or can petition the court for relief.[3]

This abbreviated analysis does not take into consideration all of the unique requirements under the UBL, including matters we've previously articled - notices to interested parties, contents of local orders for abatement, and emergency action under the UBL, just to name a few.[4]

Another requirement is timely appeal by a property owner subject to an order to demolish, which was the subject of the recent case *McCain as Tr. of 237 Columbia St. Land Tr. v. Town of Andrews*, No. 21A-PL-1252, 2021 WL 6140604, at *1 (Ind. Ct. App. Dec. 30, 2021). In *McCain*, over the course of several months, the Town of Andrews ("Town"): (1) ordered property owner ("Owner") to correct violations within sixty (60) days; (2) declared the dwelling unsafe; and (3) gave certain extensions of time for abatement. Despite receiving certified mail of all previous actions and hearing dates, no one with a substantial interest in the property appeared at previous Town meetings. Due to apparent noncompliance, the Town eventually ordered the solicitation of bids for demolition ("Order for Bids"). The next day, the Town file marked the Order for Bids with the county auditor.

Eleven (11) days after the Town requested demolition bids, Owner petitioned the trial court for relief. The trial court dismissed Owner's appeal as untimely under the UBL because his petition was filed more than ten (10) days after Town action was taken. On appeal, Owner focused on UBL Section 8, which sets forth the deadline

for an owner to file a complaint with the court.[5]

According to the Town, the ten (10) day deadline began as soon as the Town voted to solicit bids. According to Owner, the ten (10) day deadline did not begin to run until the next day, when the Order for Bids was filed with the auditor. The Court of Appeals sided with the Town; action is defined as a "thing done" or "deed,"[6] and the "thing done" under the UBL was the Town's action in soliciting bids – not the next day when that action was recorded with the auditor's office. Therefore, Owner's court action was properly dismissed.

If you have any questions about this alert, or about other aspects of Indiana's Unsafe Building Law, please contact **Christopher W. Bloomer**.

*Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.*

[1] Ind. Code § 36-7-9-5.
[2] Ind. Code § 36-7-9-7.
[3] *See, e.g.*, Ind. Code § 36-7-9-17.
[4] *See Court's Finding that Property Violated Indiana's UBL Provides Best Practices to Local Units of Govt.*, Robert Schein and Christopher Bloomer, Dec. 12, 2018, located at: https://www.kriegdevault.com/insights/courts-finding-that-property-violated-indianas-unsafe-building-law-provides.
[5] Ind. Code § 36-7-9-8.
[6] McCain, 2021 WL 6140604 at *2.