

Property Preservation *Review*

CHAIR LETTER

Welcome,

As Chair of the Property Preservation Executive Forum, I am proud to work with so many industry leaders as we come together to drive innovation and continue to support property preservation sector of the housing market.

The impacts of COVID-19 have extended beyond what any of us could have anticipated, and in this edition, we dive into the techniques being used to adapt and grow to meet the challenges of this pandemic.

In the past few months, we've also seen changes in the regulatory landscape. The state of Maine recently enacted a new law titled "An Act to Preserve the Abandoned Properties by Allowing Entry by Mortgagees." In this edition, we detail how property preservation companies can best navigate this new law.

The PPEF cannot exist without you, our members, and we want to share your ideas, programs, and initiatives with other PPEF members. This newsletter is also an excellent opportunity to highlight new hires, promotions, and company news. Contribute to the progress made by PPEF members: include your company news and data in future newsletters by contacting Sunny Dillinger at Saundra.Dillinger@thefivestar.com.

Thank you for your participation.



—Caroline Reaves
CEO Mortgage Contracting Services
Chair, PPEF

The Maine Law Every Mortgagee Must be Aware of

A summary of 14 MRSA § 6327

By, Baker Breedlove, Mortgage Specialists International, LLC

International, LLC The state of Maine recently enacted a new law titled "An Act to Preserve the Abandoned Properties by Allowing Entry by Mortgagees." Under this bill, mortgagees must take additional measures to secure properties and perform property preservation (P&P) work. In the same way mortgagees must take extra precautions in the state of Washington, it is imperative mortgagees familiarize themselves with the unique requirements of § 6327. The purpose of this article is to provide mortgagees, and their vendors, with a high-level summary and practical guide to navigating this new law.

Clarification on Maine's New Requirements

Prior to securing or taking other property preservation actions at a property, in the state of Maine, a mortgagee must:

Affidavit: File an Affidavit of Abandonment with the local court. The affidavit must include the following:

- Be based on personal knowledge of the affiant (i.e. the "boots on the ground" contractor).
- State the basis for that personal knowledge and attest to the conditions evidencing abandonment; and
Note: Evidence of abandonment requires a public official's determination of abandonment or three or more factors of abandonment as defined in the statute or a written and signed statement from the borrower
- A statement that a municipal, county or state official, code enforcement officer or law enforcement official was present on the date when any conditions of abandonment (as defined by the statute) were observed.

Post: Post a notice on the front door prior to each entry. The posting must include:

- The phone number for (i) the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection's foreclosure hotline and (ii) contact information to obtain access to the property.
- A statement that owner or occupant (i) has the right to possession until the foreclosure and sale are complete, and (ii) may request the locks installed by the mortgagee be removed within 24 hours.
- The servicer is also required to maintain a record

of entry by means of dated and time stamped photographs showing the manner of entry and personal items visible within the residence and maintain these records for four years.

Only after the affidavit is filed, may the mortgagee take steps to secure and preserve the property. However, certain limitations apply. For example:

Securing: mortgagees must provide a lockbox if any locks are changed. Working locks may not be removed or replaced unless all doors are secured and there is no means of entry, in which case only one working lock may be removed and replaced.

Debris removal: Personal property should not be removed unless the items are hazardous or perishable. Mortgagees must maintain a written inventory of items removed.

Occupied Properties: If, upon entry, the property is found to be occupied, the mortgagee must notify the county or municipality, post a notice at the property advising entry occurred, and take all steps necessary to remedy any damage caused by the entry.

Important Exceptions

Buried in the last sentence of § 6327 is an important exception, "[this law] do[es] not preempt, supersede or otherwise render inapplicable any rights granted to a mortgagee under the mortgage." This begs the question: does a typical mortgage preempt or supersede § 6327? The short answer is probably not.

There are several varieties of preemption but generally, in order for preemption to apply, one source of authority, such as the mortgage, must be contrary to or in conflict with another, such as § 6327. Most mortgage terms permit the mortgagee to inspect and access the property. For example, paragraph 7 of the FHA model forward mortgage states, "[Mortgagees] or its agent may make reasonable entries upon and inspections of the Property." However, the requirements of § 6327 do not prohibit a mortgagee from entering properties, it only requires mortgagees to meet certain requirements in order to do so.

Hypothetically, if a mortgage stated, "the mortgagee may make reasonable entries upon and inspections of the Property without filing an affidavit of abandonment," then the affidavit requirement contained in § 6327 would not apply.

Knowledge of the law is only half the battle. Mortgagees and their vendors must apply the law to their current practices. The following Q&A is intended as a practical guide to identify key areas where the general business as usual approach must be adapted.

Q. Are mortgagees permitted to perform exterior P&P actions prior to filing the affidavit?

A. No, unless there is an emergent condition. Code violations and nuisances, in and of themselves, are not emergent conditions.

Q. Are mortgagees permitted to enter a property prior to filing an affidavit of abandonment if there is an emergent condition such as fire or burst plumbing and ongoing interior flooding?

A. Yes. While not explicitly stated in the statute, it is safe to assume that mortgagees are permitted to enter the property to address emergent conditions. However, the mortgagee should immediately notify the county or municipality, post a notice advising entry occurred, and take all steps necessary to remedy any damage caused by the entry.

Q. If the mortgagee is not relying on the conditions of abandonment outlined in subsection 2, paragraph B of § 6327, must a public official visit the property?

A. Most likely. As counterintuitive as it may seem, § 6327(1) requires that all affidavits meet the three requirements referenced above, which includes “a statement that a [public official] was present. . .”

Q. Does a public official have to sign or otherwise attest to the contents of the affidavit?

A. No.

Q. If an individual never visits a property but reviews photos indicating that property is abandoned, does that person have personal knowledge that the property is abandoned thus permitted to sign the affidavit?

A. No.

Q. Should a mortgagee file an affidavit of abandonment if the property was secured prior to the effective date of § 6327?

A. Yes.

Q. If the mortgagee acquires title to the property at foreclosure sale, is an affidavit of abandonment required?

A. No, assuming the mortgagee acquired all rights of possession.

Q. What are the consequences for non-compliance?

A. Actual damages plus statutory damages not to exceed \$15k. Mortgagor’s attorney’s fees may be recoverable, and the servicer may be prevented from charging attorney’s fees incurred as a result of the violation.

Section 6327 underlines the importance of proactive industry advocacy. It is

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incumbent on the P&P industry to educate and encourage local officials to avoid the unintended consequences of laws like § 6327 prior to their implementation.



Baker Breedlove is CEO for the Insight One Solutions Family of Companies: MSI, Williams & Williams Real Estate Auction & I Property Claims (IPC). In this role, Baker serves as principle legal counsel to the Company, its subsidiaries, senior management, and the board of directors on a wide array of legal and regulatory issues. Additionally, Baker is the President of IPC, a premier provider in hazard insurance claim services that specializes in underpaid and denied insurance claims.

Give Props

Highlighting hirings, announcements, and achievements from PPEF member companies.

1. IMS Datawise has launched a new app called “Upkeep.” With a wide variety of features including external sharing of data profiles, in-app conversations and quick, detailed job postings, Upkeep takes the pain out of in-house negotiation processes. All relevant jobs are found in one place through secure access OTP based authentication meaning the search becomes simpler, faster and more efficient. Recruiters can also manage ongoing job lists, share job details to external platforms and set preference alerts, allowing them to focus on core activities; posting jobs, finding vendors and growing their business.
2. Altisource recently hosted a webinar called “Regulatory Ripple Effects” Industry leaders discussed the impact COVID-19 could have on federal regulations, foreclosure moratoriums, REO, tech, and more during DS News’ latest webinar, “The Regulatory Ripple Effects.”
3. Guardian Asset Management, in response to COVID-19, is now offering a proprietary enhanced cleaning and protection system which combats microbial contaminants such as bacteria, fungi, viruses, algae, mold within homes, offices and public facilities. Utilization of these environmentally friendly cleaning products inhibits the growth and spread of problematic bacteria, protects surfaces for long-term eradication and suppresses of for up to 90 days. “Our latest enhanced protection protocol is part of our mission in providing cutting-edge solutions to protect and preserve our client’s assets; in this case help them control and manage problematic organisms and viruses such as COVID-19,” Ernie Stefkovic, Vice President of Guardian Asset Management.
4. On July 14, Mortgage Specialists International, LLC (MSI) announced that it has appointed Baker Breedlove to President and CEO of the Fort Worth, Texas-based field services and asset management firm. Breedlove, a Georgia native who graduated from the University of Georgia and Florida Coastal School of Law, previously served as the President of I Property Claims (IPC) and General Counsel for Insight One Solutions. He will replace Gary Tolbert, who will transition into a strategic advisory role.



Working Together: How the Property Preservation Industry Keeps Moving Forward

By, Marti Diaz, Mortgage Contracting Services

Anyone who's worked in the property preservation industry will likely tell you that the business is incredibly complex. Mortgage servicers, property preservation companies, vendor networks, and federal, state, and local governments all play important roles in ensuring that properties are safe, secure, and well maintained.

Property preservation companies are challenged daily to effectively balance client service, vendor partnerships, business needs, and regulatory compliance. Throw in a global pandemic, and the complexities are immediately compounded.

While effective communication and collaboration have long been the key to success for property preservation companies, there has never been a greater need for these critical core competencies. Communicating frequently, effectively, compassionately, and with purpose has become a mantra for many in the industry.

As most business in the United States came to an abrupt halt in March of this year, the property preservation industry, deemed an essential service, quickly began to adapt and evolve. With new challenges presenting themselves every day (and sometimes every hour), companies relied heavily on hyper-increased communication with clients, vendors, and government regulators.

When non-essential services began to close, vendors were suddenly faced with the threat of being stopped by authorities while trying to complete work orders. Property preservation companies acted quickly to provide vendors with documents confirming that they were essential workers. Companies also helped provide guidance to vendors regarding new contactless inspection guidelines.

Dwain, an inspection vendor, confirmed, "There have been many challenges with this pandemic - from safety concerns to local authorities trying to prevent access to neighborhoods. But we have stayed dedicated to the work." He added that was made possible in-part by obtaining "letters for essential workers to carry with them, as well as understanding and following no-contact guidelines" to get the jobs done.

Getting the job done right has certainly continued to be a priority for the industry. However, the health and safety of employees, vendors and communities has clearly been the primary focus. Companies quickly adapted to comply with the recommendations of health experts as well as local, state, and federal governments. Some of the many changes businesses have made include:

- Acting quickly to get employees out of office buildings and up and running in home offices in a matter of days;
- Frequently touching base with their new remote workforce, providing resources to ensure effective work-from-home strategies;
- Implementing schedule changes as needed, to accommodate a workforce that may have new, added responsibilities of homeschooling children
- Providing tools for new challenges around life in quarantine, including physical and mental wellbeing;
- Navigating city and state restrictions that shut down supply stores and placed travel restrictions in some neighborhoods.
- In the midst of all the challenge and change, one thing has remained constant: the incredible amount of teamwork and collaboration. "We

have seen organizations across all sectors of the industry facing unique challenges," said Caroline Reaves, Mortgage Contracting Services CEO. "Everyone has been so helpful and understanding as we have worked together to get past our obstacles in order to keep neighborhoods safe."

Although the industry has faced unprecedented challenges in the last few months, organizations have reacted with grace, perseverance, and an eagerness to help. Perhaps Reaves said it best when she added, "In the most challenging of times, we have really seen the best in people and in organizations. There has just been more kindness."



Marti Diaz is the Chief Human Resources officer for MCS, a nationwide provider of property preservation, inspections, REO property maintenance, property registrations and additional mortgage services to the financial services industry. In her role, Marti leads the Human Resources and Training teams, helping develop and execute MCS' people strategy in support of MCS' strategic business plan. With over 25 years of Human Resources experience, Diaz joined MCS in January 2018. Previously, she was Vice President of Human Resources at JDC Healthcare where she grew the business from 26 dental clinics to more than 60 in just five years. Her HR experience also includes Vice President of Human Resources for TGI Friday's, Taco Bueno and Senior Director of Human Resources for Brinker International. Diaz has a Bachelor of Arts in Political Science from the University of Texas at Arlington.



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Maintaining Properties in the Age of New Safety Guidelines

By, Lindsey Pryor, Altisource

While the mortgage servicing industry is accustomed to dealing with natural disasters, it's never had to deal with a global health crisis like COVID-19. The pandemic continues to threaten field services and other industries with long-lasting operational and economic repercussions. With a diverse mix of people involved, coordinating property preservation has always been complex, even on a good day. COVID-19 not only makes it more difficult, it also adds a severe health risk.

In response to the pandemic, Altisource® hosted a webinar on May 7 called "Distance in the Field: Maintaining Properties in the Age of New Safety Guidelines." Experts presented information and suggested strategies aimed at providing vendors with a fresh perspective on moving forward in an industry fraught with uncertainty. This article summarizes some of their key points as well as the results of poll questions conducted during the session.

Please note that the following viewpoints are all recommendations. Actions and solutions may vary depending on companies, locations, and situations.

The impact of COVID-19 on property preservation

In one poll, 83% of the attendees cited "reduced volume" as a business capability that has changed or been put under pressure. But reduced volume has been an issue for property preservation companies for years due to a decline in defaulted mortgage loans and foreclosures. The pandemic just made it worse.

Ironically, the pandemic has the potential to increase defaults and foreclosures due to a weaker economy and rising unemployment. However, the government recently froze foreclosures and evictions and gave homeowners the ability to request forbearance with the CARES Act — for the time being, at least. That could change if the government doesn't extend the moratoriums.

The other poll answers included dealing with a "remote office workforce" (49%), which affects efficiency and timelines; an "increase in cost demands" (26%) that reduces profits; and a "loss of coverage" (11%). While it wasn't included in the poll, a reduced labor force due to illness and layoffs may also affect companies as states lift restrictions.

Safety in the field continues to be important

Though mandates and restrictions are loosening in some states, it's still critical for people to protect themselves, especially in high-risk areas. Identify and know the risk levels by getting regular updates from governments and other reliable resources. Communication is also more important than ever. Monitor updates throughout the day and pass them onto your point of contact. Share them with service

providers and clients, too.

In areas where little or no data is available, assume there is a high level of threat. It's better to take precautions and not need them than to be caught unprepared. Keep in mind that mitigating risk doesn't just apply to exposure to COVID-19. It also means potential harm from residents and other physical threats within those areas.

Technology expands safety awareness and efficiency

Leverage technology to ensure safety and improve productivity. Today, field services companies have access to technology options that help at the property and in the office. Solutions include devices and apps that provide real-time risk alerts and data, GPS location services and clearer communication as well as platforms that enable virtual inspections, more efficient workflows, video conferencing and much more.

While adding new and updated tech can be expensive, it is a recommended necessity and investment these days. Most companies recognize that fact, too. According to the Altisource poll, 80% of webinar attendees said they are "comfortable" (45%) or "very comfortable" (35%) with evaluating new technology options to help them understand and manage personnel risks.

Maintaining safety and capabilities on-site

The main goal is to preserve properties and reduce community blight. To prevent risk, provide virtual services where possible, especially in occupied properties. If that isn't an option, take every precaution while at the property. Social distancing helps but doesn't work where properties require several people to provide services.

In those cases, spread out tasks with individuals or smaller groups to work at different intervals instead of large groups at one time. Encourage wearing personal protective equipment and following CDC recommendations. Use pickup and delivery for materials when possible since going to supplier stores may take longer and risk spreading the virus.

Be respectful of the community as well as other contractors and homeowners still occupying properties. Try to avoid giving the impression mandated restrictions are being ignored. For example, use hand equipment like rakes for yardwork instead of a leaf blower that may draw attention. If there is an issue, communicate with local authorities to work it out before it escalates to fines or attracts media attention.

Take the right documentation to help avoid fines

The final poll asked attendees what they

consider their biggest challenge when trying to complete services. Almost half (48%) said "health concerns," which isn't surprising. The remaining answers were "finding qualified staff" (23%), "material shortages" (13%), "neighbors" (13%) and "receiving fines or tickets" from local authorities (3%).

One major hurdle these days is that restrictions and regulations vary by state. To make matters worse, those regulations are sometimes enforced by whoever is reading them, including code officers, police, firefighters, homeowners, and neighbors, and they don't always interpret them the same way.

This issue is not only leading to confusion, which can stop or hinder work, but it is also resulting in fines tallied against companies, contractors and homeowners. In New York City, for example, Department of Buildings Inspectors are reportedly using speed trap-style tactics to stop contractors they say are violating a ban on "non-essential" construction work. First-time offenders are being fined as high as \$10,000 for each violation without exceptions.

One recommendation to help avoid confusion and fines is to show inspectors and contractors have the right to work on properties by providing them with valid authorization letters. Altisource is having success with them in most cases. But, again, it usually depends on the person reading the letter in each instance.

Get a better view of the future by working together

It is possible to determine several potential scenarios for the future of the industry, but the situation changes every day. There are too many unknowns. Unless a COVID-19 vaccine is found, long-term impact will be determined not only by the pandemic but also ultimately what happens because of it with health risks, the economy, unemployment and other factors.

One way the industry may survive is with everyone coming together to communicate, collaborate and develop strategic solutions.



Lindsey Pryor is the Senior Manager of Business Development for Altisource Field Services. She leads strategic product and business initiatives with a focus on product innovation, business performance and client satisfaction. Previously, Lindsey served as a client relationship manager overseeing operational performance. Prior to joining Altisource Field Services, she held management positions at Bank of America and Nationstar where she gained invaluable experience in mortgage servicing operations and vendor management.

What Will Field Work and Office Work Look Like When We Return?

Start by doing what's necessary; then do what's possible; and suddenly you are doing the impossible. —Francis of Assisi

By, *Louis Salerno, Guardian Asset Management*

As the economic impact of this pandemic became immediately clear, States enacted executive orders, outlining new financial relief for the general public. The CARES Act instituted a foreclosure moratorium, and state governors issuing additional foreclosure and eviction protection. For example, on April 2, Florida Governor Ron DeSantis suspended any statute providing for a mortgage foreclosure cause of action under Florida law. In Massachusetts, Governor Charlie Baker enacted a moratorium on non-essential evictions of residential and small business tenants and residential mortgage foreclosures.

The people working in the Property Preservation Industry represent one of the few essential segments of our economy today. But there are now significant responsibilities to work safe. Since February, it has become potentially perilous to go onto properties. Workers have to be compliant with social distancing protocols and there is no margin for error when it comes to following enhanced safety requirements.

It is the responsibility of field service providers to educate their workers about measures to protect themselves and others from the coronavirus. A multitude of resources on how to more carefully track everything in the field are now available. This new sense of personal responsibility calls upon everyone, as citizens and workers, to be more aware. This includes a consciousness of where one is and who one is interacting with. After months of home confinement, individuals are re-entering public spaces with a new sensitivity to the presence of different people other than their spouse and children.

Many websites now have downloadable, print-read 10-point posters in English and Spanish, outlining COVID-19 Basic Infection Prevention Measures for posting in the workplace. The list of warnings includes: stay at home if you are sick. DO NOT WORK, wash hands frequently; wear a mask, avoid ride-sharing, and practice social distancing.

Some of these warnings are particularly difficult to practice in the field. For example, some states allow Property Preservation workers to go to properties, but only allow one worker at a time on the property. What is key is to be aware; aware of oneself and aware for one's co-workers. If two workers are needed on a particular property, then each should have personal protective equipment (PPE) and wear it properly.

Another problem exists if the state directive asks to avoid sharing tools. Some tools have to be shared, and more than one worker will ultimately interact with that equipment. Workers must continuously disinfect the shared equipment to remain in compliance with these new standards.

Personal interactions have been severely impacted by this new normal; remaining vigilant in each moment and maintaining an awareness of

the potential impacts connected to each action. Things were taken for granted in the past, are in the forefront of everyone's consciousness today. This all contributes to flattening the curve by modifying behavior.

The spread of the coronavirus disease COVID-19 has spurred a surge in the utilization of cleaning and disinfection products. The Centers for Disease Control and Prevention (CDC) recommends regular cleaning of frequently touched surfaces, along with thorough hand washing—both standard practices for helping slow the spread of viruses and bacteria. But consumers will be disappointed if they go looking for off the shelf products that specifically promise to kill SARS-CoV-2, the virus that causes COVID-19.

Although there is good evidence the novel coronavirus is one of the easiest types of viruses to kill, scientists are still determining its exact nature and how big a role surface transmission plays in its spread. Understanding exactly how a new virus spreads and persists in the environment takes time, resources, and virus samples for research—all of which are spread thin in the early weeks and months of an outbreak. That lack of data creates challenges both for people seeking advice about how to avoid this new disease, and the experts and organizations offering that advice.

Speed is of the essence, because surfaces such as doorknobs, countertops, and electronic equipment can transmit viral and bacterial diseases. According to the CDC, coronavirus is believed to spread primarily person-to-person through airborne respiratory droplets. But it may be possible for the virus to spread on surfaces, too. Scientists know that similar respiratory viruses expelled into the air by coughing, breathing, or speaking can settle on surfaces, where they can linger in an active state for days, protected in a cozy covering of mucus.

Although scientists aren't sure yet how long the novel coronavirus remains active on a surface, one study done in a hospital found that similar coronaviruses can persist on hard surfaces like glass, metal, or plastic for up to 9 days (*Journal of Hospital Infection* 2020). Another study, recently published but not yet peer-reviewed, found that coronavirus remains stable on plastic and stainless steel for 2–3 days. (*MedRxiv* 2020), and the *New England Journal of Medicine* (2020).

Many businesses, in response to COVID-19, are now offering a proprietary enhanced cleaning and protection system which combats microbial contaminants such as bacteria, fungi, viruses, algae, mold within homes, offices and public facilities. Utilization of these environmentally friendly cleaning products inhibits the growth and spread of problematic bacteria, protects surfaces for long-term eradication and suppresses the virus for up to 90 days.

This two-part application system offers enhanced protection and management of problematic surface areas found in single-family homes, apartments, offices, warehouses, schools, hospitals, manufacturing plants, community centers, and vehicles.

When applied to a surface or incorporated into a material, these products form a covalent bond with the substrate and create a microbiostatic antimicrobial coating. The coating forms a nano-bed shield of spikes (self-assembling monolayer), each of which carry a positive charge that attracts the negatively charged bacteria. Once attracted, the molecular spikes pierce the cell and rupture its cell membrane, causing that bacterial microorganism to die.

Use of this process helps ensure that frequently touched surfaces (e.g., elevator call buttons, stair railings, door knobs, copy machines, countertops, light switches, phones, keyboards, time clocks, lockers, kitchen appliances, toilets, and faucets) are disinfected more frequently during the pandemic. The CDC has issued recommendations to employers for cleaning and disinfecting the workplace.

It also is important to make sure that cleaning personnel are properly trained and equipped to ensure that they are disinfecting all frequently touched areas and that they have appropriate PPE to avoid contracting the coronavirus while cleaning. If the employer learns that an infected employee or other person has been in the workplace, the employer should immediately undertake additional deep-cleaning and sanitizing to prevent the spread of the virus.

Finally, all need to be mindful of warnings by public health officials that there may be spikes in COVID-19 cases in the months to come or a second wave of cases in the fall or winter, in which case, employers may once again need to implement emergency measures with little warning from state and local governments. Accordingly, companies should consider what actions to take now in order to prepare for a potential sequel to the unanticipated events of earlier this year.

Careful planning now may help to mitigate problems and risks in the unfortunate event of another shutdown in the months to come. Teleworking policies will continue to require company review to ensure that they are up-to-date, reflect the business needs, and comply with applicable law. And for those who do return to their office jobs following the coronavirus, the space will look different, and they'll be functional for a different future. Hopefully, that will mean they're safer, too.



Louis Salerno has practiced corporate law for over 25 years and is *Guardian Asset Management's* General Counsel. A graduate of Villanova University School of Law where he received his *Juris Doctorate* degree and Boston University where he received his *Bachelor of Arts in Psychology*.