

# Wisconsin Supreme Court Affirms That Courts Are Required to Order the Sale of Abandoned Property

In an [e-alert last year](#), the Reinhart Real Estate Opinion Team reported on a Wisconsin Court of Appeals case which held that a lender holding a foreclosure judgment against abandoned real property in Wisconsin must sell that property upon the expiration of a five-week period after obtaining the foreclosure judgment. Within the past few weeks, the Wisconsin Supreme recently upheld the appellate court's decision in this case<sup>1</sup>. As a result of this recent decision, Wisconsin circuit courts now have the authority to order the sale of abandoned properties subject to a foreclosure judgment "within a reasonable time after the redemption period." In its opinion, the Wisconsin Supreme Court purposely did not set a particular time period in which sales of abandoned property would have to occur. The Wisconsin Supreme Court instead left it up to the circuit courts to determine a reasonable time period for each sale "after considering the totality of the circumstances."

As we noted last year following the appellate court's decision, Wisconsin mortgagees now have to carefully consider the implications of pursuing a foreclosure judgment on an abandoned property or, for that matter, a property that could subsequently meet the statutory criteria of an abandoned property set forth in Wisconsin Statutes section 846.102. If a mortgagee obtains a foreclosure judgment on an abandoned property, it no longer has total control over the timing of the subsequent sale of that property, and may instead find itself compelled by a court to sell that property by a designated time. Therefore, mortgagees should study the effect of this decision on each potential property for which it is considering foreclosure. If it elects to pursue foreclosure, the mortgagee may also want to implement policies and procedures to influence the timing of the foreclosure judgment so that the subsequent sale takes place at a time reasonably acceptable to the mortgagee.

As noted in the concurring opinion to *Bank of New York Mellon v. Carson*, the Wisconsin Supreme Court's decision may also have an impact on the Wisconsin real estate market as a whole as there are thousands of foreclosed properties across the state that may now have to be scheduled for sale. Lenders holding foreclosure judgments on properties that have been abandoned seemingly will have to promptly schedule a sale or risk being deemed to have held these properties for an unreasonable period of time.

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If you have questions about this case or foreclosure processes in Wisconsin generally, please contact your Reinhart attorney or any member of the Reinhart [Real Estate Opinion Team](#).

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<sup>1</sup> *Bank of New York Mellon v. Carson*, 2015 WI 2015 (Feb. 17, 2015).

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