



Abandoned Housing Initiative – Frequently Asked Questions

Q: How big is this program?

A: We have worked on over 1,100 properties in 88 cities and towns throughout the Commonwealth.

Q: What properties are eligible?

A: Eligible properties include abandoned residential properties with violations of the State Sanitary Code – 105 CMR 410. Communities refer relevant properties to AHI; however, eligibility for receivership action will be determined by AHI based on feasibility.

Q: Does there need to be a certain number of violation notices before a property is eligible?

A: No. While an abundance of code violations can lead to a *stronger* case, we can pursue receivership action so long as it is the most appropriate avenue to remediate existing code violations.

Q: Does it make a difference whether a bank or a private party is the record owner of a property?

A: From our perspective, it does not make a difference. We have completed full receivership actions on both bank owned and privately owned properties.

Q: Can we pursue a receivership with an occupied property?

A: It depends. As a policy matter, our office does not pursue occupied properties. However, on a case-by-case basis, we can pursue receivership actions on occupied properties. In the past we have completed receivership actions on multi-family properties with at least one vacant unit in which the receiver moved tenants between units as it completed the repairs.

Q: What is our first step as a community?

A: After scheduling an introductory meeting with AHI, communities can refer up to 10 initial properties for inspection with their assigned Assistant Attorney General. If a community has more than 10 properties, they should refer their highest priority properties first. Properties can be dispersed throughout the community or they can be concentrated in specific blocks or neighborhoods. In communities that experience higher levels of property blight, we have found that concentrating efforts in a specific block or neighborhood can have the greatest impact.

Q: How many cases end up in receivership?

A: Surprisingly few – and that's a good thing! A major asset of our program is the strength of our demand letter. Our internal statistics show that 80% of the time issues are resolved short of litigation due to productive responses to our demand letter.

Legal Disclaimer:

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Abandoned Housing Initiative – Frequently Asked Questions

Q: If a property does end up in receivership, how long does it usually take until the process is complete?

A: It depends. There are numerous factors that can affect the length of the process. Receiverships generally last anywhere from 6 to 18 months.

Q: Who can be appointed as a receiver?

A: Anyone with the means and experience to rehabilitate residential properties. Through our program we have had not-for-profits, for-profits, community groups, construction companies of all sizes, and attorneys appointed as receiver. Usually local groups make the best candidates as they have a more personal stake in the community. We always take into consideration the city or town's preferences when selecting a receiver. We will conduct background checks and interview all interested receivers to ensure that we are comfortable petitioning the Court for their appointment.

Q: Do you have a list of approved receivers?

A: We do not keep a list of approved receivers. We will match projects with a pool of interested receivers while heavily weighing the preferences of the city or town.

Q: How can we spark interest among potential new receivers in our community?

A: We have been able to gain new receivers by hosting receivership training seminars in the past. Our community partners have also had success through the placement of advertisements in local newspapers announcing their collaboration with the Attorney General's Office.

Q: What is the receiver required to do after being appointed?

A: We recommend that the receiver retain a lawyer at the outset of the appointment. Receivers are required by the court to file bi-monthly accountings of their completed work and their incurred expenses. Fortunately, legal fees can be incorporated into the total cost of the project.

Q: What happens after the receiver completes work on the property?

A: The appointment of the receiver does not change the ownership of the property at any point during the rehabilitation process. Once the work has been completed, the receiver may petition the property owner for repayment. Generally, though not always, the owner declines and the receiver is given a lien on the property. The receiver's lien takes priority over all other liens and encumbrances apart from tax and municipal liens. The receiver can then petition the court to foreclose on its lien and the property is then subject to a judicial public auction.

Q: What happens if the public auction doesn't bring back enough money to pay off the receiver's lien?

A: In most circumstances, a receiver will bid on the property up to the amount of their lien. If no other bid beats out the receiver, the receiver obtains clean title to the property and it can later sell the property.

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PART I ADMINISTRATION OF THE GOVERNMENT
(Chapters 1 through 182)

TITLE XVI PUBLIC HEALTH

CHAPTER 111 PUBLIC HEALTH

Section 127I Enforcement of sanitary code; remedies; receiver

Section 127I. Upon the filing of a petition to enforce the provisions of the sanitary code, or any civil action concerning violations of the sanitary code by any affected occupants or a public agency, whether begun in the district, housing or superior court, and whether brought under section one hundred and twenty-seven C or otherwise, the court may: issue temporary restraining orders, preliminary or permanent injunctions; order payment by any affected occupants to the clerk of court, in accordance with the provisions of section one hundred and twenty-seven F; or appoint a receiver whose rights, duties and powers shall be specified by the court in accordance with the provisions of this section.

Upon receipt of service of any petition in which the appointment of a receiver is sought, the owner shall provide to the petitioner, within three days, a written list of all mortgagees and lienors of record. At least fourteen days prior to any hearing in any such proceeding, the petitioner shall send by certified or registered mail a copy of the petition to all mortgagees and lienors included in the owner's list as well as to all other mortgagees and lienors of which the petitioner may be aware, and shall notify them of the time and place of the hearing. Upon motion of the petitioner, the court may order such shorter periods of prior notice as may be justified by the facts of the case.

Whenever a petitioner shows that violations of the sanitary code will not be promptly remedied unless a receiver is appointed and the court determines that such appointment is in the best interest of occupants residing in the property, the court shall appoint a receiver of the property. Any receiver appointed under this paragraph may be removed by the court upon a showing that the receiver is not diligently carrying out the work necessary to bring the property into compliance with the code, or that it is in the best interest of any tenants residing in the property that removal occur.

No receiver shall be appointed until the receiver furnishes a bond or such other surety and provides proof of such liability insurance as the court deems sufficient in the circumstances of the case. Upon appointment, the receiver shall promptly repair the property and maintain it in a safe and healthful condition. The receiver shall have full power to borrow funds and to grant security interests or liens on the affected property, to make such contracts as the receiver may deem necessary, and, notwithstanding any special or general law to the contrary, shall not be subject to any public bidding law nor considered a state, county or municipal employee for any purpose. In order to secure payment of any costs incurred and repayment of any loans for repair, operation, maintenance or management of the property, the receiver shall have a lien with priority over all other liens or

mortgages except municipal liens, and such lien priority may be assigned to lenders for the purpose of securing loans for repair, operation, maintenance or management of the property. No such lien shall be effective unless recorded in the registry for the county in which the property is located.

The receiver shall be authorized to collect rents and shall apply the rents to payment of any repairs necessary to bring the property into compliance with the sanitary code and to necessary expenses of operation, maintenance, and management of the property, including insurance expenses and reasonable fees of the receiver, and then to payment of any unpaid taxes, assessments, penalties or interest. Any excess of income in the hands of the receiver shall then be applied to payments due any mortgagee or lienor of record.

Nothing in this section shall be deemed to relieve the owner of property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner, nor shall appointment of a receiver suspend any obligation the owner or any other person may have for payment of taxes, of any operating or maintenance expense, or of mortgages or liens, or for repair of the premises.

The receiver shall be liable for injuries to persons and property to the same extent as the owner would have been liable; however, such liability shall be limited to the assets and income of the receivership, including any proceeds of insurance purchased by the receiver in its capacity as receiver. The receiver shall in no instance be personally liable for actions or inactions within the scope of the receiver's capacity as receiver. No suit shall be brought against the receiver except as approved by the court which appointed the receiver. Nothing herein shall be construed to limit the right of tenants to raise any counterclaims or defenses in any summary process or other action regarding possession brought by a receiver.

The remedies set forth herein shall be available to condominium unit owners and tenants in condominium units. Whenever used in this section, the term "petitioner" shall include a condominium unit owner or tenant, the term "owner" shall include a condominium association, the terms "mortgagees" and "lienors" shall include mortgagees and lienors of individual condominium units, and the term "rents" shall include condominium fees. The receiver shall have the right to impose assessments upon individual condominium units for payment of expenses incurred in the exercise of his powers, which liens shall have priority over all other liens and mortgages, except municipal liens.

The receiver shall file with the court and with all parties of record, on a bimonthly basis, an accounting of all funds received by and owed to the receiver, and all funds disbursed, and shall comply with such other reporting requirements mandated by court, unless, for cause shown, the court determines that less frequent or less detailed reports are appropriate; provided that said notice shall not be less than five days.