

Bet Tzedek Legal Services

- Non-profit legal services organization serving low-income persons throughout Los Angeles City and County
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Receiverships

- Community Concern
- Community Response
- Common Key Components
 - Statutes
 - Resources

Statutory Components

- Notice
- Standing
- Triggers
- Receivers
- Lien Priority
- Reinstating Owners

Notice

- Consistent notice procedures provide owners with ample due process and enhance an enforcement agency's credibility with courts
- Statutory notice to persons with recorded interest generally required
- Adequate notice gives owners an opportunity to address code violations and avoid receivership

Standing

- Municipality or municipal corporation
- Enforcement agency
- Tenant
- Neighbor
- Non-Profit Corporation
 - Improvement of housing conditions
 - Community preservation

Triggers

- Any violation of any applicable code (Minnesota)
- Failure to remedy or abate violations after reasonable time to repair when conditions impact health & safety (California)
- Limited circumstances (structurally unsound, lack water/sewage, hazardous electrical/gas, lacks safe egress) (Arizona)

Receivers

- Qualifications
 - Property manager - tenant rights & relocation
 - Rehab manager – finance & construction
- Individuals or Non-Profits
- Range of Responsibilities
 - Operating Expenses
 - Onsite Security
 - Emergency Issues
 - Finance Repairs

Lien Priority

- Receiver's Certificates
- Scale of Improvements
- Capital Investment
- Secured Loans – “Super-Priority”
- Existing Liens
 - Private (mortgage, utilities, debt)
 - Government (tax, penalties)

Reinstating Owners

- Demonstrated Pattern of Inability to Maintain Property
- Prevent Reoccurrence of Conditions
- Two Approaches – How & When
 - 18 months post-receivership court supervision; regular reports by owner and government inspectors (California)
 - Pay all receivership costs & municipal liens, assume all receiver's obligations, post bond forfeit in event future major code violations not promptly addressed, reinstatement must be in "public interest" (New Jersey)

Provisions for Sale

- Most states: case by case, judicially supervised
- Sale terms: fair market value, negotiated basis, appraisal, extinguish liens, clean title
- Samples
 - Burden on owner to prevent sale (Ohio)
 - 1 Year Deadline or sale options (NJ)
 - Open market sales, negotiated sales to non-profits, conversions to tenant coop or condominiums, sales to tenant-occupant (1-4 units only)

Litigation Components

- Documented Code Violations
- Tenant Declarations
- Real Estate Appraisal
- Rehabilitation Estimate
- Letters of Intent to Fund
- Qualified Receiver
- Sample Pleadings

Resource Components

- Community
 - Tenant Associations
 - Neighborhood Stakeholders
- Financial
 - Conventional lenders
 - Revolving Funds (public & private)
- Legal
 - City Attorneys
 - Legal Services
- Rehabilitation
 - Community Development Corporations

Community

- Tenant Associations
 - On the Frontlines (gather evidence)
 - Essential to Enforcement (empower tenants, foster communication)
 - Partners in Designing Long Term Community-Oriented Solutions
- Neighborhood Stakeholders
 - Residents and Resident Organizations
 - Business Communities and Associations

Financial

- Receiverships financially uncertain
- Rehabilitation unpredictable
- Better to repair & improve before full abandonment
- Community development financial institutions (CDFI) key
- Revolving funds can fill gap in coverage provided by conventional loans

Legal

- Petition for receivership and defend contested cases
- City size and profile
 - City prosecutors
 - Contract prosecutors
 - Community partners – legal service
- Don't forget legal alternatives
 - Tax foreclosure
 - Regulatory agreements

Rehabilitation

- Community Development Corporations
- Undertake feasibility analysis
- Serve as receivers
- Rehabilitate properties
- Negotiate sales
 - Community Lottery (Chelsea, Mass.)
 - Affordable Housing Developers
 - Open Market Sales

Measuring Success

- Present Credible Deterrent
- Target Neighborhoods Strategically
- Engage & Empower Community
- Trigger Redevelopment

Question for the Future

- The receivership remedy succeeds in its traditional role of combating abandonment in neglected neighborhoods.
- Can the remedy also succeed when property neglect is encouraged by owners looking to minimize overhead and maximize gains upon sale in a “hot” real estate market?