



LEAGUE OF CALIFORNIA CITIES PRESENTS

HOW CITIES CAN FIX DANGEROUS PROPERTIES AND INCREASE REVENUE



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AGENDA



THE PROBLEM

- Nuisance Properties
- Some Solutions for Nuisance Properties
- Receivership: the Ultimate Solution

THE RECEIVERSHIP PROCESS

- Overview of the Receivership Process
- What is the Average Timeline for a Property?
- What Are the Costs to the City to Implement?
- What Are the Risks?

QUESTIONS AND DISCUSSION

- New Questions?

WHAT'S THE NEXT STEP?



WHAT RECEIVERSHIP PROPERTIES TYPICALLY LOOK LIKE



WAYS TO DEAL WITH DIFFICULT NUISANCE PROPERTIES



- **Fines and Citations** – Usually effective, but when it is not, what can you do?
- **Vacant Property Ordinances** – Often overbroad and only results in fines.
- **Eminent Domain** – Very complicated and once property is controlled, very difficult for city to manage (see *Kelo v. City of New London* (2005) 545 U.S. 469, 473) – City of New London, Connecticut to U.S. Supreme Court to take over property. However, it is still a vacant lot.
- **City Funded Demolition** – Very expensive then left with an unattended vacant lot.
- **Receivership** - Allows a neutral court agent to take control and address the issues with court supervision at no cost to the city. In fact, the city is authorized to recover its attorneys' fees and enforcement costs pursuant to California Health and Safety Code 17980.7(c)(11) and (d)(1); *City and County of San Francisco v. Jen* (2005) 135 Cal. App.4th 305,311-312.



HOW IT WORKS



Receivership allows cities to take control of nuisance properties and use equity from dangerous properties to repair them. Most cases result in equity being taken from mortgage holder banks, but it can also come from the owner.



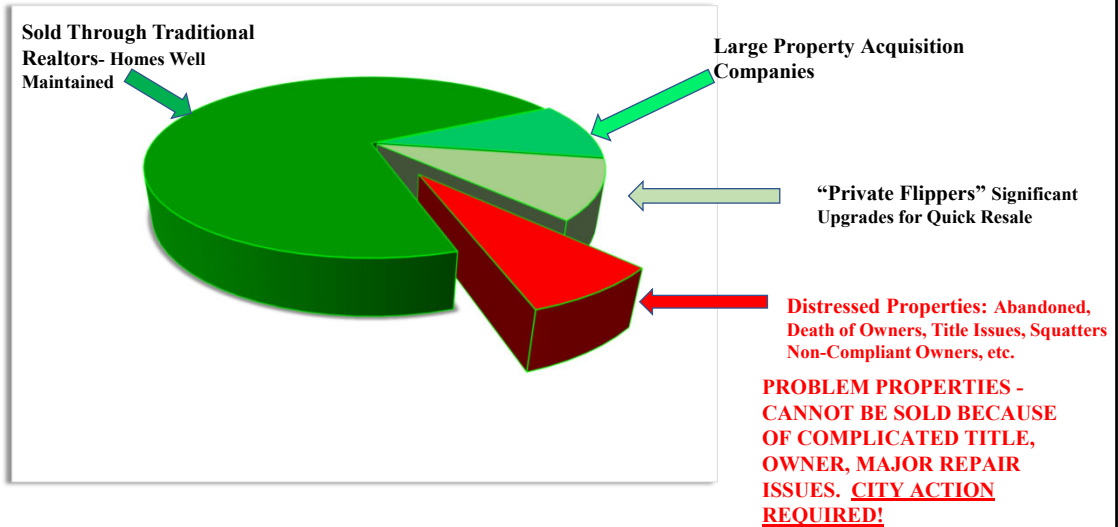
COMMON PROBLEMS RECEIVERSHIP RESOLVES



- A) Deceased Owner Issues
- B) Zombie Foreclosure Issues
- C) Owners in Bankruptcy
- D) Hoarder Issues
- E) Abandoned Properties
- F) Slumlords
- G) Drug/Prostitution Houses
- H) Various Owner Mental Health Issues



THE PROBLEM ONLY THE CITY CAN SOLVE



CASE STUDY: VALLEJO

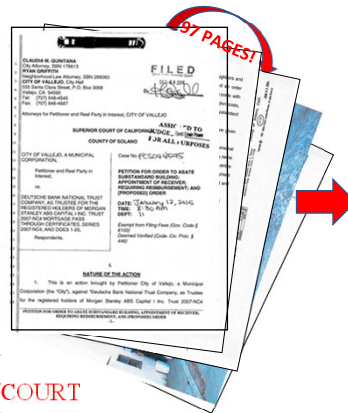


Neighborhood Problem Start Date

Start of Case Chronology Sept 11, 2013

Start of Case Chronology Jan 12, 2015

Unknown



CITY ATTORNEY/COURT FINAL DOCUMENTATION 97 PAGES



EXAMPLES OF COLLABORATION



- **Nuisance Property (14 Code Enforcement Citations/Two Inspection Warrants)**
- **24 Calls for Police Service/Numerous Arrests**
- **Two Fires/Numerous Fire Hazards**
- **Community Upset and Frustrated with Nuisance Conditions**
- **NLP Attorneys File Receivership Lawsuit: Solano County Case No. FCS042567**



HOW RECEIVERSHIP WORKS



- **Collaboration:** A receivership case requires collaboration between the City Departments. In the previous slide we saw how all the departments were involved. Generally, cases start with Code Enforcement issues. However, police can recommend high crime or drug properties for receivership. Fire prevention can do the same. The City Attorney's Office then handles organizing the case for the court and appointing a receiver.
- **Due Process:** Appointing a receiver over a property is an extreme remedy. The legislature recognizes this and requires numerous warnings be issued before appointing a receiver. Therefore, three notices serve as warnings to encourage the owner to abate the property issues. These are a California Health and Safety Code 17980.6 Notice, a 17980.7 Notice, and then a typical Court Summons.
- **Cost for City:** A city does not pay a receiver, because a receiver is a neutral agent of the court. Therefore, the receiver takes on the risk of ensuring they are paid through the equity of the property.
- **Cost Recovery:** To encourage nuisance abatement, cities are entitled to their attorneys' fees and enforcement costs, California Health and Safety Code 17980.7(c)(11) & (d)(1)



RECEIVERS GENERALLY & COST



- **Receivership:** Receivership is an ancient remedy dating back to English Courts in the 1300's. Receivers can be appointed in all sorts of cases, i.e., Washington Mutuals transition to Chase was a receivership, the California Prison Medical System was put into receivership, Bernie Madoff's Ponzi scheme was put into receivership. In summary, receivers are appointed to resolve an out-of-control situation.
- **H&S Receivers:** For our purposes, Health and Safety Receivership is designed to abate properties that are out of control due to abandonment, disaster, crime, or issues such as hoarding.
- **Cost for City:** A city does not pay a receiver, because a receiver is a neutral agent of the court. Therefore, the receiver takes on the risk of ensuring they are paid through the equity of the property.
- **Cost Recovery:** To encourage nuisance abatement cities are entitled to their attorney fees and enforcement costs California Health and Safety Code 17980.7(c)(11) & (d)(1). This means it is not uncommon for cities to have all their costs paid for bringing a property into compliance.



WHAT DOES A RECEIVER DO?



RECEIVER RESPONSIBILITIES

- **INITIAL STEPS:** Once a receiver is appointed, they must file an Oath, Bond, and Inventory with the court. The receiver will then reach out to their network of lenders to borrow money to abate the nuisance conditions presented by the property.
- **CLEARING PROPERTY** –Commonly these properties are abandoned, but sometimes they are occupied by transients or actual tenants. If the property is found to require a receivership nobody should be living in it. Therefore, receivers work to relocate occupants if any exist. Generally, the properties contain substantial debris as well and the receiver will address this shortly after being appointed.
- **CONSTRUCTION and/or SALE OF PROPERTY:** Once the property is cleared and a receiver decides whether to manage the construction or sell the property to a responsible buyer. A receiver can sell a property and provide clear title by removing liens. Once the property issues are solved and title is transferred the receiver seeks discharge from the court and distributes funds to the recorded interests, including the owner. The receiver will also work with the city to use the capital from the sale to pay the city's attorneys' fees and enforcement costs.



CLOSING A CASE?



RECEIVER RESPONSIBILITIES

- **CLOSING OF CASE:** Once the nuisance conditions are abated and/or the property is sold to a responsible owner the receiver files their Final Report and Accounting pursuant to Cal. Rule of Court 3.1184.
- **DISTRIBUTION OF FUNDS & SUPER PRIORITY:** At the final hearing seeking discharge the judge will approve how the funds are to be distributed. Receivers and the city always have an argument to be paid ahead of other lienholders, such as banks, that could have done something about the property, but chose not to.
- **ENSURING COMPLIANCE:** If the receiver abated the property with their own contractors, then the property should be in compliance. If an as-is sale occurs, then cities will want to work with the receiver to ensure the new owner complies with deadlines and even if discharged the receivership case can be kept open with the court until the nuisance is abated.



WILL RECEIVERSHIP WORK IN MY CITY?



A common question regarding receivership is whether it can work for different sized cities. The answer is receivership can work in any California city, because it is a California law. Therefore, receivership can work in a city of a few hundred people or a few million.



DOES RECEIVERSHIP CONSTITUTE A TAKING?



- People have asked, does receivership constitute a taking or inverse condemnation, which is a good question.
- The answer is no, because the U.S. Supreme Court has held cities do not have to pay to enforce their nuisance laws. *Keystone Bituminous Coal Ass'n v. DeBenedictis*, (1987) 480 U.S. 470, 497.
- Also, an owner of a nuisance property is not losing the economic value of their property if the nuisance on their property is being abated. *Hotel & Motel Ass'n of Oakland v. City of Oakland* (9th Cir. 2003) 344 F. 3d 959, 965.



WHAT ARE SOME DRAWBACKS?



RECEIVERSHIP IS NOT PERFECT

- Taking over a property can be controversial. Especially if the owner has a mental health issue such as hoarding. The receiver and city always try to work on relocating the owner. However, addressing hoarding or other mental health conditions or other sympathetic scenarios can be controversial.
- Receivership requires there be enough equity in the property to work. Therefore, some properties may not qualify for receivership, due to lack of value. However, with California property values that is rare and there are generally workarounds.



SUCCESSFUL ABATEMENTS



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SUCCESSFUL ABATEMENTS



RECEIVERSHIP BEFORE AFTER AND COST RECOVERY PROPERTY VALUE INCREASE

NLP NEGOTIATING SETTLEMENT WITH BANK OF NEW YORK HEARING - 12/18



330 Moorland as-is value before receiver \$68,500.

330 Moorland on the market now for \$175,000.



CONTACT INFORMATION



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