

Frequently asked questions:

How communities can use receivership to stabilize abandoned & foreclosed properties

Q. What is receivership?

A. The use of statutory power as authorized in M.G.L. Chapter 111, Section 127i, to seize buildings to ensure enforcement of the state sanitary code. The law provides for the property to be placed under the control of a judicially supervised receiver who has the power to collect rents, make repairs, and borrow money when necessary.

Q. What are the receiver's responsibilities and powers?

A. The receiver is responsible for promptly repairing the property to bring it into compliance with the state sanitary code. The receiver has the power to collect rents if the building is occupied and borrow funds to make necessary improvements. The receiver can grant security interests or liens on the affected property. The receiver's lien has priority over all other liens or mortgages except municipal liens; a priority lien may be assigned to lenders for the purpose of securing loans for repair, operation, maintenance or property management.

Q. How does the process work?

A. In a typical scenario, the municipal department responsible for enforcing the state sanitary code petitions the housing court for the appointment of a receiver after having exhausted all other remedies to secure a property's compliance with health and safety codes. If the court deems the city's request valid, it then appoints a receiver to step in to stabilize and manage the distressed property. The receiver arranges for repairs and management of the property and funds this through rents or borrowing using the priority lien. Receivers may be property management firms, CDCs, lawyers or other responsible parties qualified by the court. Ideally, a property owner steps back in to take control of the building but in the absence of a responsive owner, the receiver can foreclose on the property to collect outstanding debts.

Q. What type of assistance is available through the Attorney General's office?

A. The Attorney General's office has designated four assistant attorneys general to assist the 39 Neighborhood Stabilization Program (NSP) communities to address problem properties that fit the NSP definition of abandoned or foreclosed (see below). The AAGs will be working directly with local officials to identify problem properties and to secure the owner's cooperation in correcting any sanitary code violations. If and when necessary, the AAGs will petition the court to secure the appointment of a receiver.

Q. Why is receivership such an important tool?

A. Receivership can expedite a community’s intervention when a property poses a hazard because it has been abandoned and/or when tenants are at risk. Ideally it is part of a municipality’s overall housing strategy and only used when all other efforts to secure the owner’s cooperation have failed.

Q. What assistance is available to communities for receivership efforts??

A. In addition to the assistance that is being provided to the NSP communities by the Attorney General’s office, MHP can provide technical assistance to communities that are interested in promoting receivership as a tool to address the problems of foreclosure and abandonment.

Q. What types of funds are available to receivers to finance the property improvements?

A. Resources for receivers come from a variety of sources including private lenders, the receiver’s own funds, and public funding such as Community Development Block Grant funds (CDBG). The Massachusetts Housing Investment Corporation (MHIC) and Boston Community Capital (BCC) are two other potential sources of funding for receivers.

Q. What is the NSP definition of “abandoned” or “foreclosed.”

A. NSP defines these terms as follows:

- *Abandoned:* A home is abandoned when mortgage or tax foreclosure proceedings have been initiated, no mortgage or tax payments have been made by the owner for at least 90 days, and the property has been vacant for at least 90 days.
- *Foreclosed:* A property “has been foreclosed” at the point that the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

Q. Where can I go to find more information?

A. As always, if you have any questions about how to fund your receivership program, the upcoming receivership training sessions, or simply how to start the receivership process, please contact MHP’s Rita Farrell at rfarrell@mhp.net.