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PERSPECTIVE

How receiverships can help California tenants living in uninhabitable conditions

By Ryan Griffith

There are tenants living in substandard conditions throughout California. To combat uninhabitable conditions, the California Legislature has implemented laws to penalize landlords that provide unsafe housing — e.g., the warranty of habitability (Civ. Code Section 1941.1), protection from retaliatory eviction (Civ. Code Section 1942.5), and protection against self-help by landlords (Civ. Code Sections 1159, 1160).

If a landlord or living situation is truly out of control, drawn out civil litigation is unlikely to address a tenant's immediate concerns. In fact, litigating under these laws may cause more trouble for a tenant than it is worth. Even if the tenant wins a civil lawsuit, which is not a guarantee, the damages are often inadequate, due to a legislative cap of \$2,000 per violation in many instances. See Civ. Code 1940.2. That is, if the tenant collects anything at all from the judgment.

It is notoriously difficult to collect on monetary judgments. Even if a tenant successfully litigates a claim — a prospect that could take years — the tenant may or may not come away with anything of value. And even if the tenant collects on the judgment, they are faced with finding new housing. Finding affordable housing in California is an extremely difficult task, especially for a tenant that litigated against their previous landlord.

Health and safety receiverships are one alternative to civil litigation. A tenant can petition for a receivership pursuant to Health and Safety Code Section 17980.7(c). This allows a tenant to show a judge that the current owner is either unable or unwilling to pro-

vide safe housing. Therefore, a change in management and possibly ownership in the property is immediately necessary.

Health and safety receiverships are commonly used by cities and counties to combat major nuisance properties, zombie foreclosures, drug houses, and other neighborhood blights.

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In addition to enforcement agencies such as cities and counties, the Legislature provided tenants and tenant associations with standing to appoint a receiver in California Health and Safety Code Section 17980.7.

Tenants will undoubtedly question what a receiver does and how it could benefit them. A receivership allows a court-appointed receiver to immediately take control of the property from the landlord who allowed the uninhabitable conditions to exist. The court-appointed receiver acts as an agent of the court to ensure that all health and safety code violations at the property are resolved expeditiously. The receiver then works as a neutral agent for all parties. See Cal. Rule of Court 3.1777. In that role, the receiver acts to resolve the uninhabitable conditions at the property and bring the property into productive use.

Once appointed, a receiver has tremendous power to abate the nuisance conditions. The receiver can demolish the property, hire

contractors to rehabilitate the property, sell the property or take a variety of other actions. See City of *Santa Monica v. Gonzalez*, 43 Cal. 4th 905 (2008). However, the receiver's ultimate responsibility is to ensure the building code violations that endangered public safety are abated and the property is brought into productive use. City

Cities and counties throughout California have effectively used the receivership remedy to bring nuisance properties into productive use. However, the Legislature envisioned tenants and tenant associations filing receivership actions as well. This is why the statute clearly provides tenants and tenant associations with standing to appoint a receiver under the Health and Safety Code. Furthermore, the statute allows a receivership petitioner to recover their attorney fees and enforcement costs (Jen). If cities, counties and tenants began using the receivership remedy, a great deal of uninhabitable housing could be brought into productive use. The combination of cities, counties and tenants bringing receivership actions may even put a dent in California's affordable housing crisis. This would be achieved by receivers abating nuisance properties, which could lead to increased safe and affordable housing throughout the state.

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