

JUSTICE FOR NEIGHBORS (JFN) PROGRAM

The program focuses on fighting the most corrosive social and physical nuisances that degrade the quality of life in the City's neighborhoods. Operating under the "broken windows" theory, JFN's objective is to identify, prioritize, and address these nuisance problems before they grow into more serious offenses that can lead to urban decay in our communities. The JFN teams understands that the ability to respond to neighborhood complaints and address nuisance problems proactively is critical to improving the quality of life in our neighborhoods. There are multiple legal actions that can be taken against property owners and responsible parties who maintain these nuisance conditions. In general, they consist of Civil, Criminal and Administrative actions, which the City Attorney is authorized by law to file.

CIVIL REMEDY: PROPERTY RECEIVERSHIP

A Health & Safety Receivership is a legal process through which title and responsibility for a piece of real property is temporarily placed with a court appointed officer – the Receiver. This significant civil remedy to address nuisance properties is authorized pursuant to California Health & Safety Code Sections 17980 et seq., Receiverships are typically reserved for dangerous and substandard properties where the owner has a history of non-compliance with local enforcement agency orders to abate, or where emergency circumstances are discovered, such as escalating crime which pose immediate threats to the health and safety of occupants, neighbors and neighborhoods.

Receiverships are a dramatic mechanism which visibly communicates to neighbors and surrounding communities that the agency is taking positive steps to clean-up residential neighborhoods and to protect residents who have been subjected to dangerous conditions by absentee or recalcitrant owners. The Receivership is typically the last option available to address a dangerous and substandard property where all other efforts have failed or been exhausted, or in cases where the City Attorney determines no other viable remedy is available.

CRITERIA FOR REVIEWING WHETHER ONE OR MORE CONDITIONS EXIST TO SUPPORT APPOINTMENT OF A HEALTH & SAFETY RECEIVER

- Unpermitted construction
- Fire danger
- Rampant crime and repeated calls for service combined with dangerous physical conditions on the property
- Abandoned and unsecured structures
- Occupants living in dangerous conditions

- Accumulation of junk and debris, or hoarding
- Hazardous materials, asbestos, or toxic mold
- Structural inadequacy or complete failure
- Lack of heat, electricity, and running water
- Exhaustion of Civil Enforcement Remedies

PROCEDURAL STEPS MUST BE FOLLOWED; STRICT NOTICE AND AN OPPORTUNITY TO APPEAL AND BE HEARD IS REQUIRED

California Health and Safety Code Section 17980.6 states “If any building is maintained in a manner that violates any provisions of this part, the building standards published in the State Building Standards Code...or any provision in a local...**and the violations are so extensive and of such a nature that the health and safety of residents or the public is substantially endangered**, the enforcement agency may issue an order or notice to repair or abate pursuant to this part. Any order or notice pursuant to this subdivision shall be provided either by both posting a copy of the order or notice in a conspicuous place on the property and by first-class mail to each affected residential unit, or by posting a copy of the order or notice in a conspicuous place on the property and in a prominent place on each affected residential unit.” (Emphasis added).

- 1) A Notice and Order to Repair or Demolish a Substandard or Dangerous Building (N&O) has been issued and correctly served;
- 2) The N&O is final after appeal or failure to appeal;
- 3) The owner has been given no less than **18 months** to comply with the N&O unless it is immediately dangerous and of such a nature that the health and safety of residents or the public is substantially endangered;
- 4) The owner has been given at least two administrative penalties for failure to comply; and
- 5) The substandard or dangerous building is a public nuisance.

HEALTH & SAFETY RECEIVER AS COURT OFFICER

It has long been recognized that a receiver is an agent and officer of the appointing court. As an officer of the court, a receiver is not an agent of any particular party to the action, but represents all persons interested in the property. The property in receivership remains under the court’s control and continuous supervision and the importance of such supervision cannot be understated. *People v. Stark* (2005) 131 Cal. App. 4th 184; *Pacific National Bank v. Geernaert* (1988) 199 Cal. App. 3d 1425.

POWERS OF THE HEALTH & SAFETY RECEIVER

Health and Safety Code Section 17980.7 (c) (4) provides the following powers and duties in the order of priority listed in this paragraph, unless the court otherwise permits:

- To take full and complete control of the substandard property.

- To manage the substandard building and pay expenses of the operation of the substandard building and real property upon which the building is located, including taxes, insurance, utilities, general maintenance, and debt secured by an interest in the real property.
- To secure a cost estimate and construction plan from a licensed contractor for the repairs necessary to correct the conditions cited in the notice of violation.
- To enter into contracts and employ a licensed contractor as necessary to correct the conditions cited in the notice of violation.
- To collect all rents and income from the substandard building.
- To use all rents and income from the substandard building to pay for the cost of rehabilitation and repairs determined by the court as necessary to correct the conditions cited in the notice of violation.
- To borrow funds to pay for repairs necessary to correct the conditions cited in the notice of violation and to borrow funds to pay for any relocation benefits authorized by paragraph (6) and, with court approval, secure that debt and any moneys owed to the receiver for services performed pursuant to this section with a lien on the real property upon which the substandard building is located. The lien shall be recorded in the county recorder's office in the county within which the building is located.
- To exercise the powers granted to receivers under Section 568 of the Code of Civil Procedure.