

# Receivership: The Key Strategy in Baltimore's Fight Against Vacants

By Joan Jacobson

*Editor's note: This piece is an addendum to Ms. Jacobson's extensive study of Baltimore's Vacants to Value initiative. That study can be found at <http://www.abell.org/publications/vacants-value>.*

Housing Court in downtown Baltimore was largely empty one spring day in 2015, though the docket listed 39 "receivership" cases filed by the city against owners of vacant properties. Four lawyers from Baltimore's Department of Housing and Community Development, known as Baltimore Housing, stood at a table stacked with green folders, calling out addresses of derelict houses they wanted renovated in communities all over the city: Madison Park, Sandtown-Winchester, Upton, Ashburton, and Reservoir Hill in West Baltimore; Canton, Greektown, McElderry Park in East Baltimore; Greenmount West and Seton Hill, just north of downtown. Some of the houses had been vacant for more than a decade.<sup>1</sup> The lawyers called out the owners' names, but few answered. Many didn't want to be found; some were dead.

In each case the lawyers asked the District Court judge to take the properties away from negligent owners and assign them to the city's designated "receiver," a small nonprofit called One House At A Time (OHAAT), which would then sell the houses to anyone with the financial means to renovate them.

Before Vacants to Value began in 2010, the city never filed more than 100 receivership cases a year.<sup>2</sup> More than four years into the program, Baltimore Housing is using the receivership program as "an assembly line," according to the program's director, Deputy Housing Commissioner Michael Braverman. By the end of 2014, the city filed 1,876 lawsuits against private property owners in the program's first four years.<sup>3</sup> By 2015, the city was taking 60 to 90 receivership cases to court each week.<sup>4</sup> Braverman said the city was coordinating receivership cases with other development on a street, with a goal of "a whole block outcome."

A review of the process, part of a 10-month evaluation of Baltimore's Vacants to Value program, found receivership an effective, though time-intensive, tool for compelling owners to restore their vacant properties or to otherwise place properties in the hands of those who will. Untangling legal ownership and addressing the limited availability of construction funds remain persistent challenges. Yet when viewed against the range of other vacant-fighting strategies, receivership is worthy of a long-term commitment from Baltimore City government and expanded resources.

Baltimore, however, applies the legal strategy of receivership differently than other cities and states. While Baltimore's receiver is a conduit to sell court-appointed vacant properties to people who will renovate them, other cities use receivers to make the repairs before changing ownership. Chicago, for example, began using court-appointed receivers in 2004 to repair derelict, occupied apartment buildings. If the owners did not pay liens for the repairs, the receiver could

foreclose and take possession. In 2014, Chicago's courts began assigning some single-family homes to receivers as well.<sup>5</sup> Massachusetts's law, used in small towns and cities, allows a court to appoint a receiver to repair properties that are then auctioned if the owner doesn't pay repair costs.

## History

Baltimore's receivership law is intended to eliminate a public nuisance in the form of a vacant, decaying building that encroaches on the rights of neighbors. Receivership is unlike eminent domain, or condemnation, which is when the city takes ownership of a property needed for a public project and compensates the owner at fair market value. In a receivership case, the city does not take title to a property and does not compensate the owner.

Receivership became law in 1991 after the city council added it to the building code at the behest of Anne Blumenberg, founder of Baltimore's Community Law Center, a nonprofit law firm that advocates for neighborhoods.<sup>6</sup>

The receivership law was first used in the 1990s by the Community Law Center and a sister organization, Save A Neighborhood, as a tool to help neighborhoods take action against abandoned, privately owned houses, particularly in Sandtown-Winchester in West Baltimore and Patterson Park in East Baltimore.<sup>7</sup> In the early days it was difficult to get judges to understand that the new law was not an unconstitutional confiscation of private property, but a legal means to eliminate a public nuisance.<sup>8</sup>

In order to pursue a case, a lawyer for the Community Law Center or Save A Neighborhood had to be deputized as an assistant city solicitor to go into court to represent neighborhood organizations as plaintiffs. The Community Law Center would also prequalify bidders to make sure redevelopment plans were coordinated with each community's needs and that the repair work was completed.<sup>9</sup>

After more than a decade, the city decided that the community associations would no longer be allowed as plaintiffs and that Baltimore Housing would handle all receivership actions so the city could substantially increase the number of receivership cases as a large-scale tool to eliminate blight.

"This is not a criticism of Community Law Center," said Housing Commissioner Paul T. Graziano, "but a decision to move to a larger scale."<sup>10</sup> The move, nevertheless, changed the program's emphasis from a small neighborhood-driven program to an expanded one based on the city government's approach to restore blocks of houses in neighborhoods with the market potential to rent or sell newly renovated homes.

## Receivership Outcomes

After more than four years, the receivership program appears to be a good solution to the thorny challenge of getting vacant houses repaired without the city first taking ownership. However, its full impact likely will not be known for years due to the lengthy time it takes to gain control of a property and have it fully repaired and occupied. It takes one to three years from the time the city

sues an owner, to the time a house is renovated and occupied. By the city's own account it takes on average 450 days.<sup>11</sup>

While the city filed 1,876 receivership cases in the first four years of Vacants to Value, Baltimore Housing reported that the receiver sold and settled on 407 properties. Not all of the sales make it to settlement, and some can take months or even years to close. As for houses renovated and occupied, the city's data show only 137 properties were completed; another 108 had obtained building permits but were not complete.

Additionally, 311 owners who were sued by Baltimore Housing made repairs to their vacant houses and obtained occupancy permits before the court appointed their properties to the receiver,<sup>12</sup> proving that the threat of litigation is enough to induce some owners to show up in court, plead to keep their properties, and in fact, follow up with renovations.

The lack of financing has also tipped the receivership program toward investor-owned properties and away from owner-occupied homes because there are few finance options to help homeowners purchase and rehabilitate vacant houses in Baltimore. Nevertheless, some investors have renovated homes they purchased through receivership and sold them to homeowners.<sup>13</sup>

## Receivership Process

### How the process begins

Baltimore Housing has 12 attorneys working on receivership as part of the agency's broader work on code enforcement. It has also developed a computerized tracking system that contains more than a dozen dates, from the time a suit is filed until a property is awarded to the receiver and sold. The system also displays maps, block by block, of receivership properties with notations about redevelopment plans for surrounding houses. The public can check the status of receivership cases by simply typing an address into the Vacants to Value website.

Here are the steps the city receivership program takes with each property:

1. The city targets vacant houses located in one of three types of city communities:
  - a. "Middle markets," also called Streamlined Code Enforcement neighborhoods by housing officials. These are communities with more occupied homes than vacants. The city lists 86 of these neighborhoods on its website, ranging geographically from Edmondson Village in the west to Baltimore-Linwood in the east, Cherry Hill in the south and New Northwood in the north. The city often tries to get the attention of vacant property owners by sending them \$900 citations in the hopes the violation notices will prompt them to repair the homes or sell them. If that doesn't work, a receivership case is filed.
  - b. "Community Development Clusters," pockets of neighborhoods with a high concentration of vacant houses that are near more stable communities and show a market for renovated homes. The city lists 24 of these Community Development Clusters, including parts of Park Heights in the northwest, Westport in the southwest, and Barclay in the north.
  - c. Scattered vacant houses in other communities where the city believes there is a market for newly rehabilitated homes.

2. Once the city files suit, housing department staff make extensive efforts to reach each owner before asking a judge to assign the property to the receiver. Review of eight case files showed months of attempts to find owners, using certified mail; visits to owners' homes; and posting notices on the vacant properties. Lien holders with a stake in the property (such as mortgage companies) are likewise contacted. Baltimore Housing has 10 investigators in its code enforcement area who use a technique called "skip tracing" (similar to debt collectors' research) to locate owners.<sup>14</sup> (The investigators do not work exclusively for the receivership program, but for all city code enforcement efforts.)<sup>15</sup>

### **Legal leverage**

In some cases the threat of litigation is enough to induce property owners to repair their buildings. They show up in court after years of neglect and plead to keep the houses by obtaining building permits and finally starting renovation.

On that 2015 spring day in court, three owners did just that. One man owned a house on Saint Mary Street in Seton Hill that had been vacant for three years until the city sued him. He began renovations with a new roof. He came to court pleading for more time to finish the work. The city's lawyer asked the judge to modify a 'consent order' delaying the receivership action until October. The lawyer nevertheless kept up pressure on the owner to finish repairs, telling the judge, "The city is looking for significant progress."

Another house on Mosher Street in Upton had been vacant for 19 years. The owner appeared in court, asking for 12 months to complete renovation.<sup>16</sup> The judge told her to come back and give a status report in August. The third owner had a house in Greektown that had been vacant for nearly five years. The city's lawyer warned the owner's son to get building permits and start work. The judge set a date in August for a status report.

### **Deceased owners**

Some of the most time-consuming and complicated cases are those involving properties with deceased owners. City officials often spend months searching for an owner's heirs, eventually going to Orphans Court to untangle an estate before filing for receivership in District Court.

One such case heard in April 2015 involved a house on W. Fairmount Avenue in a West Baltimore neighborhood called Penrose/Fayette Street Outreach. The city opened an estate case in Orphans Court and, in a novel legal approach, appointed a city housing employee as the estate's "personal representative" in order to get the property in the hands of someone who would repair it. After hearing details of the case, the judge quickly appointed the receiver to sell it.

Another estate case involved a house on Dorchester Road in Ashburton, in Northwest Baltimore. The city opened an estate case in Orphans Court 18 months before when there was no evidence of family members available to repair the house or sell it. Again, the judge appointed the receiver to sell it.

## Auctions

If the city is unable to reach an owner or if the owner is incapable or unwilling to make the necessary repairs, the judge assigns the property to the receiver, One House at a Time, which then puts the property up for auction. Over the years, OHAAT retooled its receivership program to make sure buyers have the financial wherewithal to repair a property. In 2011, OHAAT began requiring prospective bidders to have \$90,000 available for construction. Prospective buyers are also vetted to make sure none of their other properties have housing code violations. OHAAT has also stepped up the number of auctions to move properties more quickly into the hands of responsible owners.

OHAAT's auctions became so popular by early 2015 that veteran developers of vacant houses complained the winning bids were often higher—sometimes by 20 percent—than similar properties sold on the private market. The higher price makes it difficult for a nonprofit developer to afford construction costs and still make the house affordable to a renter or homebuyer. Private developers argue that a higher sales price at auction, along with steep construction costs, leaves little room for profit in neighborhoods where property values are low.

Although city officials say they strategically choose properties only in communities that will support the sale or rental of renovated homes, the condition of many of these houses is nevertheless poor, even by the standards of someone familiar with Baltimore's thousands of unstable, vandalized houses with trees growing through the roofs and red "X's" warning firefighters the building might collapse. One house on the 1300 block of Central Avenue in Oliver had crumbling bricks falling to the sidewalk, no roof, no second floor, and a gaping hole under the front door where the steps had been. It nevertheless sold for \$5,000 to a construction company in suburban Bel Air, which settled on the property in June 2015. Five months later no building permits had been issued.<sup>17</sup>

These conditions have failed to deter bidders from putting up the \$3,000 required deposit. Photos of available properties are displayed on OHAAT's website in advance of each auction so prospective bidders can visit the properties in advance. During each auction, the auctioneer displays a slide of each house with an exterior view and several inside views to show whether the rooms are intact.

About 100 prequalified bidders showed up at one auction in February 2015 at the Village of Cross Keys in North Baltimore, for example. That day OHAAT sold 34 houses out of 39 up for bid. The winning bids totaled \$788,000, with prices ranging from \$5,000 to \$152,000.<sup>18</sup> Properties that don't sell at auction are offered later for sale for less than \$5,000.

Two months later another auction brought 38 bidders. The winners purchased 18 houses (out of 28 offered), ranging from \$5,000 to \$165,000, for a total of \$503,000. Although the auction brought some newcomers, many bidders appeared to know both the auction process and the city well, keeping their hands down for derelict houses in blighted neighborhoods, but bidding enthusiastically for properties in gentrifying Greentown (where one sold for \$77,000) and another in Hampden (which sold for \$165,000).

With the money from each sale, OHAAT must pay off city tax liens, auctioneers' fees, legal fees, and mortgage holders, when possible. OHAAT also gets a fee (not to exceed \$5,000 per sale) to keep its nonprofit with two full-time staff running.<sup>19</sup>

## Receivership Cases

Several receivership cases were reviewed for this study to illustrate the many steps it takes to get vacant buildings sold and renovated. The review included examination of legal methods the city uses to locate recalcitrant property owners before a judge assigns a building to the receiver, as well as the renovation process after a property is sold. Records examined include Baltimore District Court case files, city building permits, housing code violation notices, and a vacant building database. Site visits to individual properties were also made. Here are the stories of three of the houses.

### Receivership Success Story

The rowhouse at 1404 N. Bond Street is on a block of Oliver in East Baltimore, long identified by its abandoned houses.<sup>20</sup> The house had been vacant for at least four years when the city filed a court petition in April 2011 to appoint a receiver to take the house from the owner, a Northeast Baltimore man. After three months of failed attempts to reach him, a judge appointed the receiver. One House At A Time sold the house two months later to a developer for \$5,000. It took a year for the new owner to settle on the property in July 2012.

Nine months went by before building permits were issued. Work began in 2013 and continued through the next year with a complete “gut-rehab” that included new floors, walls, a roof, and a staircase, as well as a rear deck, parking pad, 3 1/2 baths, and a fireplace.<sup>21</sup>

The city issued an occupancy permit in June 2014. One month later the house was sold to a young couple for \$250,000 with the help of a Vacants to Value booster grant of \$10,000.<sup>22</sup> That price would have been inconceivable on that block just a few years before. The couple said they also took advantage of a \$37,000 live-near-your-work grant from Johns Hopkins University, where the husband works, plus a forgivable state loan for first-time homebuyers. Their state-insured mortgage has a reduced interest rate. Without those incentives, they said, they would still be living in a series of “crappy” apartments.

It had taken a little more than three years from the time the city filed suit to the time the couple purchased the finished home. In the meantime, the houses on either side were also purchased (one from the city) and renovated by a construction company.

By 2015, the house sat on a block that no longer had any boarded buildings. Most of the brick façades were clean with new doors and windows installed. In houses being renovated, new floors had been laid and drywall waited to be hung. Several “for sale” signs dotted the block, one reading “Jacuzzi, whirlpool, tubs, and more,” an unthinkable sales pitch just a decade ago.

On a bright Saturday morning a realtor showed a house under renovation to a young man, who said he lived in the neighborhood as a child when it was “awful.” Now he looked down the block admiringly. “I would love to live here,” he said.

### Receivership Roadblocks

Not all receivership cases move smoothly through the system. Sometimes buyers fail to repair homes, prompting the city to repeat its laborious process of serving notice on the new owner

and asking a judge to take the property and have it auctioned again. Two of those are rowhouses bought by the same North Baltimore man in 2012 and 2013.

The first house is at 617 N. Collington Avenue in East Baltimore. It is a small, two-story rowhouse that was vacant for seven years. It sits on a scruffy block near the busy Northeast Market, not far from Johns Hopkins Hospital.<sup>23</sup> The city filed suit in March 2012 against the owner, a forfeited Maryland corporation with a West Baltimore address.<sup>24</sup> A judge awarded the house to OHAAT in May 2012, and it was sold at auction for \$5,000 to the North Baltimore man. It took a year for him to sign a deed taking ownership.<sup>25</sup> He obtained building permits in 2013 and early 2014, but did not complete repairs. A judge sent the house back to OHAAT in December 2014 to repeat the process.<sup>26</sup> It sold again at auction in February 2015 for \$11,000 to a person with a Leesburg, Virginia address, who took title to the property three months later. As of November 2015, there were no building permits.

The second vacant house is at 1000 Scott Street in Pigtown (also known as Washington Village) in Southwest Baltimore on a stable block of occupied houses, across the street from a tidy elementary school.<sup>27</sup> It had been vacant since 2009.<sup>28</sup> After the owner failed to make promised repairs, the city went forward with legal action in 2011 to take the property from him.<sup>29</sup>

It sold at auction in April 2012 to the North Baltimore man for \$5,000. He took title to the property nine months later, but never obtained building permits and did no work. More than a year later, the city filed a new receivership suit against him. After he pleaded for more time to make repairs, a judge gave him until February 2015 to finish the work. The house, however, remained derelict and boarded for months, with paint peeling off the façade. The second-floor windows, charred from a fire, were glassless and open to the elements. Trash littered the tiny backyard.

In addition to neglecting to make repairs, the new owner failed to pay his property taxes, and the house became mistakenly entangled in the city's tax sale process, where liens of houses with unpaid taxes are sold to investors. Properties in the receivership program are supposed to be exempt from tax sale, but the city erroneously sold the lien on the Scott Street house for \$79,000 in 2014.<sup>30</sup> Once city officials discovered the error, they voided the tax sale and refunded money to the tax sale purchaser. As of November 2015, no building permits had been issued and the house had yet to be assigned to the receiver to be resold at auction.<sup>31</sup>

The owner's name has since been placed on the "banned bidder list."<sup>32</sup>

## Conclusion

Baltimore's receivership program will continue to be a successful weapon against vacant buildings, as long as the city continues its commitment to use it on a large scale and seeks financing to help purchasers with construction costs. Though time-consuming, the program is less costly than eminent domain, in which the city government must pay owners fair market value and take ownership of the properties. Baltimore Housing has also shown that receivership can be used without a land bank, a separate depository of vacant properties used in other cities.

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- <sup>1</sup> Baltimore's database of vacant building notices for the last 30 years.
- <sup>2</sup> Interview with Baltimore Housing Commissioner Paul T. Graziano and Deputy Commissioner Michael Braverman.
- <sup>3</sup> Braverman; Baltimore Housing data.
- <sup>4</sup> Interview with Jason Hessler, Assistant Housing Commissioner.
- <sup>5</sup> Interview with Bryan Essenberg, Assistant Commissioner for Housing Preservation, Department of Planning and Development, City of Chicago.
- <sup>6</sup> Baltimore City Building, Fire, and Related Codes; section 121 Vacant Building Receiver; Refreshing the Heart of the City: Vacant Building Receivership as a Tool for Neighborhood Revitalization and Community Empowerment by James J. Kelly Jr.; Notre Dame Law School September 25, 2008. *Journal of Affordable Housing & Community Development Law*, Vol. 13, p. 210, Winter 2004 [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1273735](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1273735).
- <sup>7</sup> Interviews with Anne Blumenberg, founder of the Community Law Center and James J. Kelly Jr., former Executive Director of Save a Neighborhood.
- <sup>8</sup> Anne Blumenberg.
- <sup>9</sup> Kristine Dunkerton, Executive Director of the Community Law Center.
- <sup>10</sup> Graziano,
- <sup>11</sup> Data from Cheron Porter, Director of Communications, Baltimore Housing.
- <sup>12</sup> Data provided by Baltimore Housing.
- <sup>13</sup> Property ownership and building permit records.
- <sup>14</sup> Braverman.
- <sup>15</sup> Ibid.
- <sup>16</sup> Baltimore's database on the history of vacant building notices for the last 30 years.
- <sup>17</sup> Baltimore's building permit database.
- <sup>18</sup> Lisa Evans, Executive Director, One House At A Time.
- <sup>19</sup> Ibid.
- <sup>20</sup> District Court Records for 1404 N. Bond Street; Baltimore's database for vacant building notices for the last 30 years.
- <sup>21</sup> Baltimore City building permit database.
- <sup>22</sup> Baltimore City land records.
- <sup>23</sup> Baltimore City database of vacant building notices.
- <sup>24</sup> Baltimore City land records.
- <sup>25</sup> Ibid.
- <sup>26</sup> District Court records.
- <sup>27</sup> Baltimore City land records.
- <sup>28</sup> Baltimore City database of vacant building notices.
- <sup>29</sup> Baltimore City building permits, District Court records.
- <sup>30</sup> Cheron Porter.
- <sup>31</sup> Lisa Evans, Executive Director of One House At A Time: Baltimore City building permit database.
- <sup>32</sup> Cheron Porter.