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To: County Council

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Subject: **Abandoned Property Receivership**

An abandoned property is a property whose owner does not carry out major responsibilities of property ownership. These responsibilities include paying taxes and fees that are owed as well as maintaining the property to comply with applicable codes and ordinances. Receivership is one approach for rehabilitating abandoned properties. When the owner does not keep the property in habitable or usable condition, the court may direct a neutral third party or “receiver” may take control of a property’s management. This receiver manages all aspects of the property until it is sold.

In Maryland, Prince George’s County and the cities of Baltimore and Frederick have implemented receivership laws.¹ Although Montgomery County does not have a large number of properties in an abandoned and vacant state, receivership laws can be used as an instrument to address these properties. This OLO report examines how receivership laws are implemented in other jurisdictions, discusses the benefits and drawbacks of receivership, and reviews existing County practices addressing abandoned properties. Specifically, this memorandum report:

- Presents an overview of abandoned properties and receiverships;
- Reviews case studies for receiverships in other jurisdictions;
- Examines County practices dealing with abandoned properties; and
- Presents discussion items for Council consideration.

In sum, this report finds that:

- Jurisdictions with receivership laws in place use receivership as one among many tools for rehabilitating abandoned properties.
- Receivership is typically applied to a small percentage of abandoned properties in a jurisdiction; the threat of receivership is enough to motivate owners to rehabilitate their properties in many cases. In jurisdictions with a small number of abandoned properties, receivership is infrequently used, if at all.
- For a receivership program to be successful, stakeholders including the government, the applicable court, and potential receivers must understand how receivership works and which properties are appropriate for receivership. The government may need to closely monitor the work of receivers.
- Tension may arise between efforts to rehabilitate abandoned properties through receivership and efforts to achieve affordable housing goals.

¹ Receivership is a legal remedy that can be used in a variety of contexts. This report focuses on receivership laws that are designed to address vacant and abandoned properties.

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- The County currently addresses vacant and unmaintained homes through code enforcement, tax sale, and if needed, petitioning the court to appoint a guardian of the property.
- County Code §26-20 to §26-26 (Registration of Vacant Property) requires that the Department of Housing and Community Affairs (DHCA) provide a list of unmaintained and vacant properties every March 1st to the County Executive and the County Council. DHCA did not provide a list in March 2018 or March 2019. However, DHCA did provide the list on September 3, 2019, identifying 63 properties (see Attachment 1: Annual Report on Vacant and Unmaintained Properties).

A. Overview of Abandoned Properties and Receiverships

In this report, the term “abandoned property” refers to a property whose owner is not carrying out major responsibilities of property ownership.² These responsibilities include paying taxes and fees that are owed as well as maintaining the property to comply with applicable codes and ordinances. Abandoned properties are often left vacant and can negatively affect the communities in which they are located in many ways. Abandoned properties can:

- Reduce the value of neighboring properties;
- Undermine public safety by serving as spaces for criminal activity such as prostitution and drug trafficking to occur and generating fire hazards;
- Negatively impact public health since abandoned properties are often infested by vermin and/or are used as illegal dumping grounds; and
- Generate costs for taxpayers when the government is forced to secure, clean or demolish the property or provide additional police and/or fire and rescue services.³

1. Traditional Strategies for Preventing Abandonment and Rehabilitating Abandoned Properties

Across the United States, jurisdictions use a variety of strategies for preventing abandonment and rehabilitating abandoned properties. Two broad categories of strategies for preventing property abandonment or rehabilitating abandoned properties exist. The first category consists of incentives and assistance for property owners to help them improve the economic viability of properties that are at risk of abandonment. These strategies require that the property owner be willing to maintain the property. The table below provides examples of these strategies, which vary depending on whether the property is owner-occupied or rented.

Examples of Strategies for Improving Economic Viability of Properties at Risk of Abandonment

Owner-Occupied	Rental Housing
<ul style="list-style-type: none"> • Foreclosure prevention assistance • Efforts to combat predatory lending • Presale improvement programs • Senior citizen outreach 	<ul style="list-style-type: none"> • Loan programs • Property tax relief • Statewide insurance pools • Training and technical assistance for landlords

Source: Mallach, A., *Bringing Buildings Back: From Abandoned Properties to Community Assets*, National Housing Institute: Montclair, New Jersey, 2006, pp. 24-30.

² Mallach, A., *Bringing Buildings Back: From Abandoned Properties to Community Assets*, National Housing Institute: Montclair, New Jersey, 2006, pp. 1-9

³ Ibid.

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The second category of strategies consists of regulatory strategies and other interventions designed to either compel noncompliant owners to maintain their properties or to transfer the property to new owners that will rehabilitate the property. Receivership, the focus of this report, falls into this second category, along with the more commonly used tools of code enforcement, nuisance abatement and property tax foreclosure. The table below describes traditional tools for rehabilitating abandoned properties and their limitations.

Traditional Strategies for Rehabilitating At-Risk and Abandoned Properties

Tool	Description	Limitations
Code enforcement	The government enforces (e.g. penalties and fines) local ordinances and state statutes that establish minimum standards for safety, health and welfare in housing.	Owners of properties with marginal economic value may not respond to penalties for noncompliance with the housing code.
Nuisance abatement	The government undertakes repairs or demolishes a private property after the owner fails to do so within a specified period of time, and files a lien against the property to recover costs.	The government may not be able to recover its costs, particularly if other obligations have legal priority over the government's lien.
Property tax foreclosure	When a property owner is delinquent in paying taxes, this process results in the sale and transfer of a property to a new owner.	This process is only applicable if the owner is delinquent in paying taxes. The time it takes to transfer the property to a new owner can be lengthy.

Sources: Listokin, D., Allewelt, L., and Nemeth, J., "Housing Receivership: Self-Help Neighborhood Revitalization," *Journal of Urban and Contemporary Law* 27:71 (1984), pp. 73-79; and Alexander, F.S., and Powell, L. A., "Neighborhood Stabilization Strategies for Vacant and Abandoned Properties," *Zoning and Planning Law Report* 34:8 (2011), p.6.

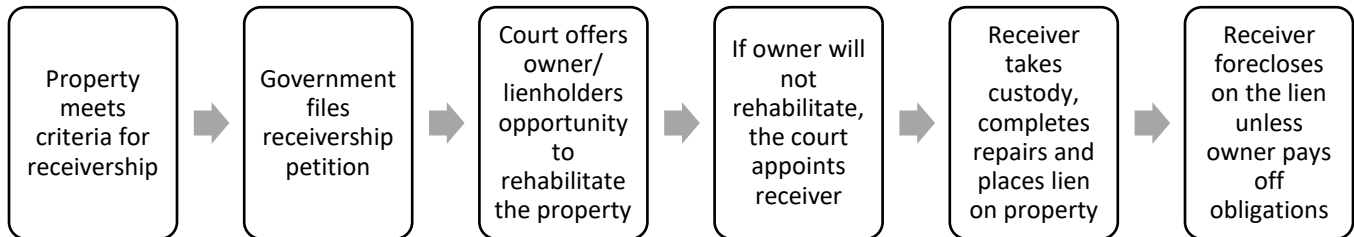
2. Vacant or Abandoned Property Receivership

Receivership is a mechanism for rehabilitating properties for which code enforcement, nuisance abatement or property tax foreclosure are not efficient or effective. This legal process gives a third party, known as a "receiver," custody of an abandoned property.

In some cases, the receiver is responsible for managing rehabilitation of the property, while in others the receiver's role is to sell the property to another entity that is qualified to rehabilitate it. In both cases, the receiver's administrative, litigation and/or construction expenditures become a lien against the property during the receivership. The owner can regain control of the property by paying this lien and other obligations within a specified timeframe. The diagram on the next page outlines the receivership process in general terms.

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Receivership Process Summary



Note: in most jurisdictions the receiver is responsible for rehabilitating the property. However, in the City of Baltimore the receiver sells the property to a qualified entity that will rehabilitate it.

Alan Mallach, a nationally recognized expert on urban planning, economic development and urban revitalization, notes that receivership cases are costly, especially if they are contested. However, receivership provides communities with an alternative for rehabilitating abandoned properties if traditional approaches are not applicable. Mallach argues that receivership is best used as one part of a larger strategy for rehabilitating abandoned properties:

Vacant property receivership is but one of many tools, not a strategy in and of itself. It can be particularly useful, though, as it enables a municipality or nongovernmental entity to rehabilitate properties without having to take title as a condition for action. Where the municipality is reluctant to take title for whatever reason, or where the property is not subject to potential tax foreclosure, the ability to pursue vacant property receivership is a valuable asset.⁴

Key elements of receivership laws. A 2016 article in the *Journal of Affordable Housing* reviewed vacant property receivership laws in 19 states and examined the key elements of these laws and how they vary across states. The table below summarizes these elements.

Elements of Abandoned Property Receivership Laws Across 19 States

Element	Description
Eligible petitioner	The petitioner in a receivership case is typically the government or a designated nonprofit entity. However, in some jurisdictions the law also allows private parties, such as neighboring homeowners or lienholders, to bring receivership petitions.
Eligible properties	All receivership laws make residential properties eligible, but some also allow receivership petitions for mixed-use, commercial and/or industrial properties. Properties must also meet criteria for receivership such as being “vacant” or “abandoned” and for creating a public nuisance.
Eligible receivers	Receivership laws set qualifications for receivers or define eligible parties. In some jurisdictions the petitioner may recommend itself as the receiver, while in others the law requires the petitioner to identify a third party to serve as the receiver, such as a nonprofit organization, entity or person with redevelopment experience. Some jurisdictions maintain a list of certified companies to act as receivers.

⁴ Mallach, A., *Bringing Buildings Back: From Abandoned Properties to Community Assets*, National Housing Institute: Montclair, New Jersey, 2006, p.165.

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Element	Description
Notice requirement	Petitioners must give notice of the receivership action to all legal owners of the property in question, typically by mail and/or posting the notice on the property. If the owner cannot be identified or located, the petitioner may be required to publish the notice. In some jurisdictions, the petitioner must provide personal service of notice to the owner.
Respondent's (property owner) duties and powers	A respondent to a receivership petition – the property owner – typically has the right to avoid receivership by presenting a rehabilitation plan to the court, but may be required to pay the petitioner's legal fees.
Receivers' duties and powers	Receivers gain temporary possession of the property, which allows them to physically enter the property, develop an improvement plan and make repairs. Many jurisdictions allow the receiver to demolish the property, though rehabilitating existing structures is usually preferred. Receivers may be responsible for making payments on pre-existing mortgages during the receivership and may be allowed or required to hold the property after rehabilitation in order to collect rents and recover expenses.
Financing and compensation	Receivers are typically permitted to apply for public and private loans from financial institutions to finance their work. In a few jurisdictions, the law makes mention of local grants for receivers. Receivers are also entitled to compensation for their work, and in some cases the law specifies a compensation rate such as a percentage of construction costs or of the sale price.
Discharge and sale	A receivership ends when the receiver completes its work and the property is sold. The court must grant the receiver permission before the receiver sells the property. Some jurisdictions require properties be sold via private sale while others require sale via public auction. The purchaser may be the receiver or a third party that shows an ability to maintain the property. Before the sale, the property owner may regain control of the property by paying off both the receiver's lien and other obligations such as mortgage and tax arrears. During the receivership, if the receiver does not fulfill its duties the owner may move to terminate the receivership.

Source: Lacey, M., "A National Perspective on Vacant Property Receivership," *Journal of Affordable Housing*, 25:1 (2016), pp. 145-155.

B. Receivership Case Studies

This section provides more detailed descriptions of receivership laws and the use of receivership in three Maryland jurisdictions – the City of Baltimore, Prince George's County, and the City of Frederick – and in the State of Massachusetts. For each jurisdiction a summary of the law is provided along with a description of how the jurisdiction uses receivership to rehabilitate abandoned properties. These case studies demonstrate that receivership is a useful tool for rehabilitating a small portion of abandoned properties in many jurisdictions, though it can present several challenges.

1. The City of Baltimore, Maryland

The City of Baltimore's receiverships law was added to the City's building code in 1991. The following summarizes the basic components of the law:⁵

⁵ Building, Fire and Related Codes of Baltimore City §121

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- **Eligible petitioners:** the City of Baltimore’s Commissioner of Housing and Community Development is the only eligible petitioner; the law does not permit private parties to make receivership petitions.
- **Eligible properties:** a property that is considered an “unsafe vacant structure” is eligible for receivership if the owner has not responded to a notice or order to rehabilitate it.
- **Eligible receivers:** the court may appoint any person as the receiver.
- **Notice requirement:** the City must give notice to all creditors and lien holders that are not named as respondents by certified mail after filing the petition but before a receiver is appointed.
- **Respondent’s duties and powers:** the respondent may request to rehabilitate or demolish the property in lieu of a receiver being appointed.
- **Receiver’s duties and powers:** the law allows for receivers to be appointed to rehabilitate and manage the property, demolish it, or sell it to a buyer qualified to rehabilitate it; in practice the receiver in Baltimore is appointed to sell properties rather than rehabilitate or demolish them.
- **Compensation:** the receiver’s costs become a lien against the property that has priority over all other debts except for taxes and other amounts owed to the government, and the receiver may foreclose on the lien by selling the property at public auction, unless the owner pays the receiver’s costs.

The City of Baltimore currently has approximately 17,000 vacant buildings, defined as unoccupied buildings that are uninhabitable.⁶ Receivership is one component of the City’s Vacants to Value program, which began in 2010. Vacants to Value uses a range of strategies in an effort to redevelop vacant and abandoned buildings in the City, including:

- Streamlining the sale of city-owned properties to make the process more clear, transparent and predictable;
- Streamlining and targeting code enforcement to better incentivize owners in priority areas to rehabilitate their properties;
- Facilitating investment in areas with large numbers of vacancies but high market potential;
- Targeting local, state and federal homebuying incentive programs to vacant homes;
- Supporting large-scale redevelopment projects in distressed neighborhoods;
- Demolition of severely distressed blocks; and
- Assistance with weatherization, stabilization and rehabilitation for low-income residents.

The City uses the receivership process only for targeted properties, which are typically single-family homes where the owner has not been responsive to code enforcement actions and for which there is likely to be demand in the market. These include homes in the following types of communities:

- “Middle markets,” which are communities that have more occupied homes than vacant homes;
- “Community Development Clusters,” which are neighborhoods selected because they have a high concentration of vacant homes, but are geographically close to stable communities and have a demand for renovated homes; and

⁶ Building, Fire and Related Codes of Baltimore City §116.4, and “Vacant Buildings,” Dataset on Open Baltimore, < <https://data.baltimorecity.gov/Housing-Development/Vacant-Buildings/gqcv-ihn5> > accessed August 5, 2019.

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- Scattered vacant houses in communities where a market may exist for renovated homes.

Since the creation of Vacants to Value, Baltimore has increased the use of receivership from about 100 case filings per year to 450 per year.⁷ One House at a Time, Inc. (OHAAT), a nonprofit organization, acts as the receiver for almost all properties that go into receivership. As the receiver, OHAAT does not rehabilitate the property. Rather, its role is to transfer ownership to an entity qualified to rehabilitate the property. In many receivership cases, the receivership petition motivates the owner to abate the violations to avoid transfer of the property to new owners.

When OHAAT transfers a property to a new owner via public auction or direct sale, the proceeds of the sale are used to pay off outstanding liens and encumbrances, legal fees and auctioning costs, and to pay OHAAT for its services. If the proceeds are not sufficient to pay off the obligations, the liens are removed from the property and rebilled to the original owner. The buyer receives clear title to the property, meaning that all liens have been paid off or abated. OHAAT funds its activities entirely through the transfer of receivership properties and is permitted to receive a maximum of \$5,000 per property for its services. OHAAT received an average service payment of \$2,843 per property in 2018.

OLO spoke with OHAAT staff, who explained that it would not be possible for a single organization to rehabilitate all properties that go into receivership. By transferring properties to small investors for rehabilitation, OHAAT is able to serve as the receiver for a larger volume of properties than would be possible for a receiver that is also responsible for rehabilitation. OHAAT staff note that although receivership by itself cannot transform communities, it is one tool that has helped to reduce the number of vacant buildings in Baltimore. At the same time, they identified the following challenges:

- Receivership is a complex and costly legal process that may be viewed negatively by many stakeholders who consider that it amounts to the government taking property.
- OHAAT does not control how the property is used after it is transferred and has limited tools to promote homeownership and housing affordability – many receivership properties become rental homes.
- For a handful of properties, ownership cannot be determined, and it may not be possible to transfer the property to a new owner because of legal requirements to notify the current owner.

2. Prince George's County, Maryland

The Prince George's County Housing Receiverships statute was enacted in 1998. The following summarizes the basic components of the law:⁸

- **Eligible petitioners:** the Prince George's County Director of the Department of Permitting, Inspections, and Enforcement is the only eligible petitioner; the law does not permit private parties to make receivership petitions.

⁷ "Receivership 101: How to Buy Property Through Receivership," City of Baltimore, PowerPoint Presentation by Kathleen Byrne, Deputy Assistant Commissioner for Litigation, 2014; and Interview with One House at a Time Staff, March 2019.

⁸Prince George's County Code, §13-301.

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- **Eligible properties:** a residential property is eligible for receivership where a violation that threatens public health, safety or welfare exists that the owner has not corrected in a timely fashion and where abatement of the violation is consistent with the County's housing policies and priorities.
- **Eligible receivers:** the petitioner may nominate one or more receivers, which can include the Redevelopment Authority of Prince George's County, the Prince George's County Housing Authority, the Department of Permitting, Inspections and Enforcement, an urban renewal agency, or a private not-for-profit corporation.
- **Notice requirement:** the County must give 30-days' notice by mail to all persons or entities with a legal or financial interest in the property before filing a receivership application.
- **Respondent's duties and powers:** during the receivership, the respondent(s) may elect to correct the violation(s) but must post "security" or a deposit to guarantee that violations will be corrected.
- **Receiver's duties and powers:** the receiver may take possession of the property, charge and collect rents, provide for the operation and maintenance of the property, dispose of abandoned personal property, complete the abatement of the violations, and obtain financing from public and/or private lenders for this purpose. The receiver is responsible for paying accrued taxes and other charges imposed by the government.
- **Compensation:** the receiver's costs, including an administrative fee of up to 15% of the cost of the abatement, that are not paid by the owner become a lien against the property. If the lien is not paid off in a timely fashion, the receiver may act to foreclose on the lien.

Representatives from the Prince George's County Department of Permitting, Inspections and Enforcement and Department of Housing and Community Development stated that the County Government has not made use of the receiverships law recently, if ever. From their perspective, the legal process to pursue receivership is too complex and lengthy to be worthwhile.

Prince George's County has found that the "Clean and Lien" process, which is the County's nuisance abatement mechanism, is a more efficient and effective way to rehabilitate abandoned properties. Through the "Clean and Lien" process, the government undertakes repairs or demolishes properties with persistent and unaddressed code violations and places a lien on the property for the government's costs properties (similar to Montgomery County's process; see pages 12).

3. City of Frederick, Maryland

The City of Frederick's receivership ordinance for blighted properties was adopted in 2013 and amended in 2016 and 2019. The recent amendments adopted in August of 2019 make more properties eligible for receivership, specifically those that are considered "habitually vacant."⁹

- **Eligible petitioners:** the City of Frederick Director of Public Works is the only eligible petitioner; the code does not permit private parties to make receivership petitions.

⁹ City of Frederick Code of Ordinances, Chapter 12.4, Article II and Ordinance G-19-23

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- **Eligible properties:** “blighted” structures, defined as structures that are condemned, have at least one outstanding court order to abate a violation, have had two or more court orders to abate violations in a two-year period, or are considered “habitually vacant.”
- **Eligible receivers:** the code does not specify eligibility requirements for receivers, but the petition to the court must include the qualifications of the proposed receiver.
- **Notice requirement:** the City must give notice by certified mail to creditors and lienholders of the property within 10 days of filing a receivership petition.
- **Respondent’s duties and powers:** during the receivership, the respondent(s) may elect to correct the violation(s) but must post “security” or a deposit to guarantee that violations will be corrected.
- **Receiver’s duties and powers:** the court may appoint a receiver to rehabilitate, demolish or sell a property. If appointed to rehabilitate or demolish, the receiver may contract for labor and supplies, borrow money, manage the property after rehabilitation for up to two years and collect rent, and foreclose on the receiver’s lien.
- **Compensation:** the receiver’s costs become a lien against the property. If the lien is not paid off in a timely fashion, the receiver may act to foreclose on the lien.

Prior to August of 2019, the City of Frederick’s receivership ordinance defined “blighted” properties, which are eligible for receivership, as either:

- A property that has been condemned by the City; or
- A property with one or more outstanding court orders to abate a violation.

As of August of 2019, the City had not yet used the ordinance. In discussions regarding proposed amendments to the law, staff indicated that while a small number of properties technically met the criteria for receivership, the City did not consider it prudent to pursue receivership in those specific cases.¹⁰ In August of 2019, the City of Frederick Board of Aldermen adopted amendments that expanded the definition of “blighted” properties to include, in addition to the criteria above:¹¹

- Properties that have received two or more court orders to abate violations in a two-year period; and
- Properties considered to be “habitually vacant,” meaning unoccupied for at least four years.

4. Massachusetts

The Massachusetts Receivership Statute was enacted in 1993. The following summarizes the basic components of the law:¹²

- **Eligible petitioners:** the affected occupants of a property, a public agency, as well as condominium unit owners may petition the court for enforcement of the sanitary code in properties where the owner has failed to comply following code enforcement actions. One possible remedy is for the court to appoint a receiver.

¹⁰ City of Frederick, Mayor and Board Workshop, May 22, 2019, Item 2.

¹¹ City of Frederick Ordinance G-19-23

¹² Mass. Gen. L. c. 111, § 127I

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- **Eligible properties:** the Receivership Statute applies to residential properties.
- **Eligible receivers:** the Receivership Statute does not specify what persons or entities may be appointed as a receiver.
- **Notice requirement:** the petitioner must notify all mortgagees and lienors of the property via certified or registered mail 14 days prior to any hearing regarding the appointment of a receiver.
- **Respondent's duties and powers:** within three days of being served with a petition for receivership, a property owner must provide the petitioner with a list of mortgagees and lienholders of record.
- **Receiver's duties and powers:** upon appointment the receiver is responsible for repairing the property and maintaining it in a "safe and healthful condition". The receiver may borrow funds and enter into contracts to fulfill its duties. The receiver may also collect rents and use them to fund repairs and maintenance, then unpaid taxes, penalties and fees and finally payments due to mortgagees and lienholders. The receiver may also apply for financial assistance from the Commonwealth should rents not be sufficient to cover the receiver's costs. The receiver must file a bi-monthly accounting to the court and parties of record of all funds received and owed to the receiver.
- **Compensation:** the receiver's costs become a lien against the property that has priority over all other debts except municipal liens. If the owner does not pay the lien off, the receiver may foreclose on the property to collect on the debt.

Local jurisdictions in Massachusetts can pursue receivership for occupied and vacant residential properties, including single-family homes and multi-family buildings, that are not in compliance with the State Sanitary Code and where code enforcement efforts have failed. In most cases, the threat of receivership is enough to compel owners to bring their properties up to code. If the property goes into receivership, the court will appoint a receiver, usually a private investor.

Some Massachusetts towns have large numbers of distressed properties and file receivership cases on a regular basis. Other jurisdictions do not file receivership cases regularly and rely on the assistance of the Massachusetts Attorney General for the few properties where filing for receivership becomes necessary. The Attorney General's Abandoned Housing Initiative works with local jurisdictions to file receivership actions for specific properties and provides financial assistance for property rehabilitation. OLO spoke with representatives from three entities in Massachusetts familiar with the receivership process:

- The Massachusetts Housing Partnership, which has been involved in promoting receivership across Massachusetts;
- The Chelsea Restoration Corporation, a nonprofit organization that has served as a receiver for properties in the towns of Chelsea, Revere, and Saugus; and
- The City of Springfield, which uses receivership on a regular basis for vacant and occupied single-family and multi-family properties.

Representatives from these organizations noted that receivership is a useful tool for rehabilitating certain abandoned properties. City Springfield officials, for example, stated that the program is popular among residents. These officials further report that the program has succeeded in saving neighborhoods at risk of decline due to a few abandoned houses and in rehabilitating historic buildings. Springfield has also used receivership to rehabilitate occupied multi-family properties with code violations that pose a threat to health or

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safety of the residents. However, the Massachusetts officials indicated that receivership can present several challenges:

- Stakeholders including the Housing Court, code enforcement officials and receivers must have a clear understanding of receivership and when it is appropriate, otherwise receivership will not be effective.
- Receivers in Massachusetts do not own the property they are rehabilitating, and as a result they often struggle to obtain financing from traditional lenders. As a result, receivers must typically have their own source of funds for rehabilitation or receive financing or grants from programs designed specifically for receivership.
- Fraud can occur if receivers are not monitored closely to verify that they are completing work on the property as promised. The City of Springfield closely reviews all receipts for work conducted by receivers and conducts inspections on a regular basis to ensure that rehabilitation is proceeding as claimed.
- A tension sometimes exists between efforts to rehabilitate abandoned properties and affordable housing goals. Once rehabilitated, the property may become unaffordable for existing members of the community, particularly if the receiver is a private investor. The results of efforts to encourage first-time homebuyers to purchase receivership properties have been mixed.

C. County Practices Dealing with Vacant and Unmaintained Properties

The Montgomery County Department of Housing and Community Affairs (DHCA) identifies residential properties in the County that are vacant and unmaintained and works with property owners to bring them into compliance with the County Code. The County uses the following tools when dealing with vacant and unmaintained homes:

- Code enforcement;
- Tax sale; or
- Petition the court to appoint a guardian of the property.

1. Code Enforcement

To ensure that housing and building maintenance standards¹³ are met, County Housing Code Inspectors inspect thousands of single-family homes, apartments, businesses, and other properties throughout the year.¹⁴ These inspections are triggered by a complaint, a referral, and/or as an inspection required under the law.¹⁵ County residents can contact the Department of Housing and Community Affairs (DHCA) to report a potential violation. Abandoned properties are often in violation of specific requirements in the County Code, such as requirements to:

¹³ The Department of Housing and Community Development's Code Enforcement section enforces/administers the following chapters in the Montgomery County Code: Chapter 26 – Housing and Building Maintenance Standards; Chapter 48 – Solid Waste; and Chapter 26 – Weeds.

¹⁴ Housing Code Enforcement Handbook, the Department of Housing & Community Affairs, available at https://www.montgomerycountymd.gov/DHCA/Resources/Files/community/code/handbook_code_eng.pdf

¹⁵ Ibid.

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- Maintain all exterior components of the house, foundation, walls, stairs, windows, doors, and the roof in good repair;
- Maintain grass and weeds at 12 inches of height or less; and
- Maintain shared or common areas of land and building in a clean and sanitary condition.

When DHCA receives a complaint for a vacant and unmaintained home (or for any code enforcement issue) and they find violations, a violation notice is provided to the homeowner with the required corrective actions and a timeframe to complete them. If the owner completes the corrective action, the case is closed. If the owner has not corrected the violation or are not responsive, DHCA can issue a civil citation to the owner, carrying a fine of \$100 to \$500. In some cases, DHCA must condemn a structure because it is considered unsafe or uninhabitable. In these cases, DHCA will seek an Abatement Order from the District Court. An Abatement Order requires that the violations be corrected and orders the department to take corrective action.

If the corrective action requires DHCA to hire contactors, the costs are billed against the owner of record and placed on the property taxes. If the property taxes are not paid, the property is subject to tax sale (see page 13).

Office of County Attorney (OCA) and DHCA staff report that the code enforcement process overall can be lengthy when it is difficult to locate property owners. The County Code allows DHCA to issue citations, but if the County cannot find the owner or if ownership is unclear (owner may be absent, deceased, deported, or a transferred property has not recorded a deed), neither DHCA nor OCA can take action. They must wait for someone to claim the property to begin an enforcement action. DHCA staff report that only a handful of properties in the County fall into this category.

Clean and Lien. When a property owner is not responsive to a violation notice, the County Code permits DHCA to address certain types of violations by securing the property, cutting grass, trimming bushes, and removing solid waste as needed.¹⁶ The County may bill the owner for the costs it incurs and may collect the costs from the owner as a lien on the property tax bill. This service is called “Clean and Lien”. DHCA staff report that most owners pay the lien through their property tax bill. Many owners of Clean and Lien properties reside out of state or purchase a house with the intention of fixing it up to sell it. These owners are often happy for the County to mow the lawn and/or remove solid waste. In 2018, DHCA completed 120 Clean and Liens, and the County collected \$130,662 from 93 property tax accounts.¹⁷

The Clean and Lien service is effective for mowing, removing solid waste, and boarding up houses as needed. However, the County Code does not currently permit DHCA to undertake additional small repairs that might further improve an abandoned property’s appearance. OCA has suggested authorizing DHCA to conduct these repairs and establishing a fund for DHCA to repair outward violations such as fixing fences, gutters, repainting, etc. This upfront funding would eventually be paid back to the County through liens, and it would resolve neighborhood concerns that otherwise may not get addressed through the current Clean and Lien process.

¹⁶ Chapter 48 – Solid Waste, Section 24 – Storage and Removal; Chapter 58 – Weeds, Section 5 – Removal by County and Housing Code Enforcement Handbook, the Department of Housing & Community Affairs, available at https://www.montgomerycountymd.gov/DHCA/Resources/Files/community/code/handbook_code_eng.pdf

¹⁷ Housing Code Enforcement Overview to the Montgomery County Council’s Planning, Housing, and Economic Development Committee, DHCA, available at https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2019/20190401/20190401_PHED2.pdf & Attachment 1: Annual Report on Vacant and Unmaintained Properties.

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Identification of Vacant and Unmaintained Homes. When DHCA receives a complaint for a vacant and unmaintained home, DHCA makes a determination as to whether the property is vacant and unmaintained through an initial inspection. In order to do that, the following are considered:

- Past due utility notices and/or disconnected utilities;
- Accumulated mail;
- No window covering;
- No furniture observable;
- Open accessibility;
- Deferred maintenance; and
- The dwelling is boarded up.¹⁸

If DHCA designates the property as vacant and unmaintained and the owner has not corrected the violations within a requested timeframe, DHCA will notify the owner. DHCA will inspect these properties at least once annually to ensure compliance with applicable laws and it is not a public nuisance. If the property continues to be unmaintained and vacant, the owner will have to pay a fee per inspection until there is a change in ownership.¹⁹ Starting at \$200 for the second inspection, the fees raise by \$100 for each subsequent inspection until the tenth inspection, where they are capped at \$1,000.²⁰ Unpaid fees will create a lien on the property and can be paid with property taxes.

DHCA must maintain a list of vacant and unmaintained properties according to County Code §26-20 to §26-26 (Bill 39-16 – Housing and Building Maintenance Standards – Registration of Vacant Property) and report it to the County Executive and County Council every March 1st. DHCA must provide the following information in the report:

- The zip code of each property inspected during the prior calendar year;
- For each property inspected, a summary of violations by number found and number corrected;
- The number of citations issued to each property owner during the prior calendar year; and the amount of fees collected from each property owner during the prior calendar year.²¹

However, DHCA did not submit the required report in March 2018²² or March 2019. DHCA did submit the report on September 3, 2019 (*see Attachment 1*). The report listed 63 properties as vacant and unmaintained, with 36 properties from Silver Spring. The identified properties had a total of 525 housing code violations; 189 or 36% were corrected and the remaining 336 or 64% are pending in the court process.

When DHCA determines that a property is vacant, DHCA will verify if the house is in foreclosure. Under the State of Maryland's Real Property Code §14-126.1 – Foreclosed Property Registry, the purchaser of a foreclosed property must register it within 30 days after a sale with Maryland's Department of Labor, Licensing, and

¹⁸ County Code §26-20 to §26-26 (Bill 39-16 – Housing and Building Maintenance Standards – Registration of Vacant Property)

¹⁹ Ibid.

²⁰ Montgomery County Executive Regulation 13-17, Unmaintained Vacant Dwellings, available at [https://montgomerycountymd.gov/exec/Resources/Files/13-17\(2\).pdf](https://montgomerycountymd.gov/exec/Resources/Files/13-17(2).pdf)

²¹ Ibid.

²² First year the report was required.

Abandoned Property Receivership

Regulation.²³ Otherwise, there may be a delay in transferring the title following the sale of the property. During this time, it may be difficult to determine which entity is responsible for maintenance of the vacant house. Under County Code §26-19, the County can fine a homeowner up to \$1,000 for not registering a foreclosed property.²⁴

2. Tax Sale

Properties that are delinquent on their property taxes are subject to tax sale, according to the Tax Property Article of the Annotated Code of Maryland (Title – Procedure, Subtitle 8 – Collection). This includes any liens placed on the property tax bill due to corrective actions taken by DHCA through the Clean and Lien service or as part of an abatement order. A tax sale is a sale of the lien on a property – but not the actual property itself. An interested party/bidder can purchase the lien, paying the County for the overdue taxes.²⁵ The bidder now becomes the certificate holder of the lien, and they are responsible for collecting the lien amount.

For the first four months after the sale, the property owner can pay the certificate holder without any interest or additional costs/fees; after that the owner is liable for interest and costs/fees. The property owner has two years from the sale date to “redeem” their property and pay back the certificate holder.²⁶ If not, the Circuit Court can foreclose on the property and turn it over to the certificate holder (must be initiated by the certificate holder).

3. Petition the Court to Appoint a Guardian of the Property

The County has one other seldom-used remedy to address abandoned and unmaintained properties – it can petition the court to appoint a guardian of the property. If the property owner lacks the ability to take care of themselves and their property, a petitioner, usually a family member, can petition the court to appoint a guardian of the property. In this legal proceeding, the petitioner asks the court to find that a person cannot take care of themselves due to disability.²⁷ The court can then appoint a guardian to make decisions– including those involving property - for that person. The guardian can then work with DHCA and OCA to resolve the issues associated with an abandoned, unmaintained property.

D. Discussion Items and Recommendations

The Councilmembers may want to consider the following questions in its discussion of receiverships and abandoned properties in Montgomery County with Executive Branch representatives:

1. Should the County expand its Clean and Lien program to include repairs that would improve an abandoned property’s appearance? What additional resources and/or authority would be necessary?

²³ Annotated Code of Maryland, Real Property Code §14-126.1

²⁴ County Code §26-19 (Bill 38-16 – Housing and Building Maintenance Standards – Foreclosed Property Registration Penalty)

²⁵ General Information – Montgomery County, Maryland Tax Sale Information and Procedures, Department of Finance, June 10, 2019, available at <https://www.montgomerycountymd.gov/Finance/TaxSale-general.html>

²⁶ Ibid.

²⁷ Guardianship and Its Alternatives: A Handbook on Maryland Law, available at <https://disabilityrightsmd.org/wp-content/uploads/2011/12/Guardianship-Handbook-2011.pdf>

Abandoned Property Receivership

2. Can existing laws regarding abandoned properties be strengthened to better assist the County in rehabilitating abandoned properties?
3. Given the benefits and challenges of receivership described in this report, should Montgomery County create a receivership law for vacant and unmaintained properties?

E. Acknowledgements

OLO appreciates the information shared and insights provided by all who participated in this project. In particular, OLO thanks:

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Rita Farrell

One House at a Time, Inc.

Lisa Evans

Prince George's County, Maryland

Estella Alexander

Gary Cunningham

Abandoned Property Receivership

Attachment 1: Annual Report on Vacant and Unmaintained Properties: Memorandum from Timothy J. Goetzinger, Acting Director, Department of Housing and Community Affairs to Nancy Navarro, President, Montgomery County Council. September 3, 2019.




DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich
County Executive

Timothy J. Goetzinger
Acting Director

September 3, 2019

To: Nancy Navarro, President
Montgomery County Council

From: Timothy J. Goetzinger, Acting Director
Department of Housing and Community Affairs (DHCA) 

RE: Annual Report on Vacant and Unmaintained Properties

As per Section 26-26 of the Montgomery County Code, please find attached the following information on vacant and unmaintained properties for the period ending June 30, 2019. As required by the Code, this report includes data on:

- (a) the zip code of each property inspected during the prior calendar year;
- (b) for each property inspected, a summary of violations by number found and number corrected;
- (c) the number of citations issued to each property owner during the prior calendar year; and
- (d) the amount of fees collected from each property owner during the prior calendar year.

Zip Codes

The zip code for each property designated as “vacant and unmaintained” can be found in Attachment 1.

Summary of Violations

As of July 1, 2019, 63 properties were identified as “vacant and unmaintained”. Fifty-seven percent or 36 properties are in Silver Spring. These properties had a total of 525 housing code violations. To date, 189 (36%) of the 525 housing code violations have been corrected.

Citations and Fees

Of the 525 violations, 64% or 336 uncorrected housing code violations and 131 civil citations are pending in the court process, including court-ordered abatement. The process for resolving uncorrected housing code violations in vacant and unmaintained properties typically takes 6 to 12 months.

In tax year 2018, DHCA collected \$130,662 for services performed by the “Clean and Lien” program to correct housing code violations associated with 93 property tax accounts.

Abandoned Property Receivership

Attachment 1

Property #	City	Zip Code	ViolationCount	Corrected Violation Count	Citation Count	Outstanding Violations
1	Silver Spring	20905	5	3	4	2
2	Chevy Chase	20815	6	6	0	0
3	Rockville	20855	14	5	0	9
4	Bethesda	20816	2	2	0	0
5	Potomac	20854	14	14	0	0
6	Silver Spring	20901	1	0	0	1
7	Silver Spring	20903	2	2	0	0
8	Kensington	20895	17	12	8	5
9	Silver Spring	20901	17	15	3	2
10	Potomac	20854	1	1	0	0
11	Clarksburg	20871	7	6	4	1
12	Silver Spring	20906	6	6	3	0
13	Silver Spring	20901	5	4	2	1
14	Potomac	20854	19	12	0	7
15	Silver Spring	20905	15	15	0	0
16	Silver Spring	20904	8	1	8	7
17	Kensington	20895	4	4	4	0
18	Silver Spring	20902	6	4	0	2
19	Silver Spring	20902	5	2	0	3
20	Silver Spring	20901	1	0	1	1
21	Burtonsville	20866	4	0	0	4
22	Silver Spring	20906	5	3	2	2
23	Silver Spring	20904	27	16	11	11
24	Dickerson	20842	31	16	2	15
25	Silver Spring	20902	2	0	0	2
26	Silver Spring	20906	5	2	3	3
27	Silver Spring	20906	4	3	1	1
28	Silver Spring	20904	2	0	0	2
29	Silver Spring	20904	2	0	0	2
30	Germantown	20874	3	1	1	2
31	Silver Spring	20910	4	4	0	0
32	Chevy Chase	20815	5	2	0	3
33	Brookeville	20833	3	3	0	0
34	Galithersburg	20878	8	0	8	8
35	Silver Spring	20902	8	5	0	3
36	Silver Spring	20906	3	0	3	3
37	Chevy Chase	20815	5	3	0	2
38	Rockville	20853	5	2	3	3
39	Silver Spring	20902	9	0	0	9
40	Rockville	20850	61	36	23	25
41	Silver Spring	20902	13	13	8	0
42	Bethesda	20817	6	6	3	0
43	Rockville	20852	9	7	0	2
44	Germantown	20874	10	6	8	4
45	Silver Spring	20904	4	4	0	0
46	Silver Spring	20906	6	2	0	4
47	Silver Spring	20905	2	2	0	0
48	Bethesda	20817	1	1	0	0
49	Silver Spring	20906	23	23	8	0
50	Rockville	20852	5	0	0	5
51	Chevy Chase	20815	2	0	0	2
52	Silver Spring	20905	6	2	0	4
53	Silver Spring	20910	9	8	1	1

Abandoned Property Receivership

54	Silver Spring	20910	7	6	0	1
55	Silver Spring	20902	2	0	0	2
56	Potomac	20854	2	1	1	1
57	Gaithersburg	20882	26	26	0	0
58	Silver Spring	20902	11	11	1	0
59	Silver Spring	20906	11	2	0	9
60	Silver Spring	20902	8	7	1	1
61	Kensington	20895	4	0	4	4
62	Silver Spring	20906	5	5	0	0
63	Silver Spring	20904	2	2	2	0
64	Silver Spring	20910	0	0	0	0
				Total Violations		525