

Taking Over As a Receiver.

Frank H. Livingston and Bill Van Sensus

Journal of Property Management

May-June 1993

Abstract:

Assuming the receivership of a property can be quite a challenge for property managers primarily because the short-term nature of receivership management makes it very different from traditional investment property management. Managers normally plan for the long-term, have a close working relationship with the owners, and design the management program based on the goals and objectives of these owners. However, in a receivership situation, property managers must take the short view since they are only acting as caretakers of the property on behalf of the court until it is sold, foreclosed or redeemed in the near future. Using their experience and expertise, they must establish short-term priorities on which to base operational decisions. Receivership management can last for as short as a few hours or as long as a few years. In many cases, those managing property on a short-term basis end up managing the same property in the lender's REO portfolio following foreclosure.

Full Text: COPYRIGHT 1993 National Association of Realtors

Assuming the receivership of a property can be a daunting task. Short notice, bruised egos, and shifting time frames are but a few of the challenges that await the property manager.

The short-term nature of receivership management differs dramatically from traditional investment property management procedures. Under "normal" circumstances, the property manager works closely with the owners, takes the long view, and structures the management program according to the owners' specific goals and objectives.

In a receivership situation, the operational decisions are based on short-term priorities, which are set by the receiver using his or her experience and expertise. The receiver's assignment is to protect the property's value on behalf of the court while preparing for the possible sale, foreclosure, or redemption of the property in the near future.

Preparation

Quite often, the property manager will receive only a few days' notice when it is brought in to assume management of a property. The ability to bring together the people and resources needed on relatively short notice is a key to establishing a reputation for being able to take on receivership responsibilities.

Considering the often unpredictable nature of receiverships, advance preparation is not only wise, it is essential. The property management company's internal systems dedicated to receiverships must be up

and running smoothly at all times. Supervisors must be able to define a situation quickly and bring the appropriate people in as needed. Assuming that the receiver is also acting as the property manager, personnel must be properly trained and ready to move on short notice.

The property manager's systems and structure also must be strong enough to continue operating effectively while personnel and resources are diverted temporarily to service the receivership property. There usually is not enough time to hire a new staff in response to the new assignments, and the time frame is often too short to provide stable employment if new employees are hired.

On the day immediately preceding an expected takeover, we hold a "new business" meeting at our offices, composed of the staff members who constitute the takeover team. Meeting attendance numbers anywhere from eight to fifteen people, including specialists in site management, accounting, payroll, and computer operations.

Together, we discuss what we know about the property, what we need to know, and what operational procedures will be necessary. We review the responsibilities of the receiver as outlined by the court. (Note that this document should be as comprehensive as possible to avoid the need for frequent trips back into court to obtain approvals for simple decisions.)

The meeting enables each person to identify the other key players in the takeover and provides for a better coordination of activities between the different specialties.

Another part of our advance preparation involves the development of a basic packet of written materials, including an outline of standard procedures for a management takeover and a checklist of things to do. The materials cover a range of issues from bank deposits to employee manuals to computer software. The packet arrives at the property with the takeover team and serves as the primary reference guide for everyone.

#### Day one

On the day we assume management of a property, our last-minute preparations often take on the appearance of a paramilitary "swat" team exercise. This is particularly true when the attorney is not sure if the receivership will be contested or if a settlement will be negotiated.

Under these circumstances, we may gather the takeover team at a restaurant, parking lot, or one of our properties close by and advise them to await further instructions. Once the court order is entered, the team is alerted to proceed to the property immediately and assume management responsibility.

Team members arrive at the property, en masse, with checklists, portable computers, and anything else they may need to establish a link to our offices. Sometimes, the previous managers have vacated the property, taking records and other vital information with them. At other times, they are still there and are fully cooperative. Occasionally, they are still at the property and must be "convinced" that they are not authorized to operate the property any longer.

Among the team's first responsibilities is to conduct a physical audit. It is important to inspect every square foot of the property to pinpoint areas of safety concern and other major issues that may affect the short-term operation of the property.

Many times the owner has ignored or not been able to pay to repair major physical problems that the receiver then inherits. It is particularly important to identify the physical problems which present life-safety concerns and prepare for their immediate repair.

It also is vital to review risk management as well as compliance with the Fair Housing Act, the Clean Air Act, and the ADA. Our experience indicates that many owners and managers are so preoccupied with the effort to keep the property from foreclosure that these areas are overlooked.

Meanwhile, other staff will be hard at work setting up accounting, bookkeeping, and other systems necessary to manage the property's day-to-day business. The takeover team must be prepared to create a complete database on the property, from scratch if necessary.

Part of the takeover usually includes "hiring" the property's on-site personnel and making provisions for their pay and work schedules, as well as instructing them on new management systems and protocols.

While the systems-support specialists train site staff and input initial information, other team members are focusing on their particular specialties. Marketing staff members evaluate information on the property's target markets and marketing strategies to determine if they conform to the objectives of the management assignment, given the physical condition of the property and the short-term nature of the receivership.

#### The first week

As initial management activities extend through the first week, takeover team members are usually on site as their duties require. Many may have responsibilities for other properties simultaneously and must adjust their work loads to handle varying demands. Site supervisors coordinate all of the takeover team's efforts to reach management's short-term goals.

During this time, takeover team members meet at the end of each day to review what has been accomplished and what remains to be done. Items are marked off the checklist as each specialist reviews what works and what does not. The meetings also identify who has assumed a particular responsibility.

Every effort must be made to ensure the transition from the previous management company to the receiver is as orderly as possible. It is important to alleviate any concerns the property's residents may be experiencing, assuring them that their day-to-day needs will be met.

Regardless of the length of the management assignment and the specific financial and other objectives, always remember that the receivership is dealing with people's homes and lives. In view of this, we have found that it is important to have as much defined in the receivership order as the judge and the various parties will allow.

Specifically, some determination regarding security deposits is essential. In many jurisdictions, no provisions are made, and the receiver can only point the residents in the direction of the owner at the time of move-out.

Additionally, it is helpful to have the management agreement between the receiver and the management company approved. By doing this, the management agreement describes many of the responsibilities that will be assumed by the receiver and eliminates the need for frequent trips back into court seeking approvals for simple decisions.

#### Changing priorities

As the property manager in a receivership, the length of an assignment can vary radically. We have had assignments as short as five hours, while others have lasted for many years. In many instances, the status may shift from managing the property on a short-term basis as receiver to managing it in the REO portfolio of the lender after foreclosure.

Once a foreclosure occurs and the receivership is terminated, the focus of the property manager changes. Often the lender will ask management to reposition the property through physical rehabilitation and marketing to increase net operating income in order to sell the property rapidly at its highest possible value.

The fact is, regardless of all the pre-planning any manager may do, receiverships are often implemented under less-than-ideal circumstances. In such cases, the dedicated efforts of a talented and experienced staff is critical to the success of the receivership.

#### Sample Letter to Residents at an REO Property

To all residents:

This letter is to notify you that XYZ Management Company has been appointed the rental and managing agent of ABC Apartments, effective September 1, 1993.

Rent due now, and all future rent as it becomes due, will be payable to XYZ Management Company. Please send your checks to the Company at 1234 Main Street, Anywhere, IL 60000.

All rents are automatically due in advance on the first of each month. You will not receive a monthly bill. Please identify your check or money order with your address and apartment number.

Please refer all matters pertaining to the maintenance and operation of ABC Apartments to John Manager at (312) 555-5555.

We are pleased to become associated with this fine apartment building and we look forward to servicing your needs. The owners are desirous of maintaining high standards at your building.

We understand that there have been some difficulties recently regarding changes of management, and we would like to assure you of our interest in providing you with good service and good housing.

We will be grateful for your cooperation in assisting us, and we are interested in your suggestions.

Sincerely,

James Receiver Your monthly rent: \$500 XYZ Management Company Your security deposit: \$750

Frank H. Livingston, CPM !R^, is senior vice president, and Bill Van Senus, CPM, is vice president of Draper and Kramer, Incorporated, Chicago.

Draper and Kramer, founded in 1893, is responsible for the management of over \$2.5 billion worth of real estate. The company manages property in 14 states, including 25,000 multifamily units and 17 million square feet of commercial property. As one of the nation's largest full-service real estate companies, it encompasses property management, leasing, mortgage banking, development, sales, and advisory services.

Gale Document Number:A14465779