

Abandoned Housing Initiative Receivership Manual



COMMONWEALTH OF MASSACHUSETTS

**OFFICE OF MASSACHUSETTS
ATTORNEY GENERAL**

MARCH 2014

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EXAMPLES OF PLEADINGS AND OTHER DOCUMENTS

These documents are examples of the pleadings and orders that have been filed by the Attorney General's Office in receivership actions in various courts throughout the Commonwealth and cover all facets of receivership from the initial communication with a property owner to the termination of a receivership. Included are examples of correspondence by the Attorney General with (i) property owners, (ii) lien holders, and (iii) others with interest in a property subject to enforcement actions.

These forms and sample correspondence should not be relied upon as either legal advice or an opinion by the Attorney General's Office. If you would like to use the forms, then you should do so only with the independent advice of legal counsel who can modify them accordingly to provide for a private or public petitioner and to reflect the specific circumstances of your own case, to the extent your case falls within the parameters of the applicable law.

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CONTESTED PETITION FOR RECEIVERSHIP

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THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

WESTERN MASSACHUSETTS DIVISION

1350 MAIN STREET

SPRINGFIELD, MASSACHUSETTS 01103-1629

MARTHA COAKLEY
ATTORNEY GENERAL
www.mass.gov/ago

TEL: (413) 784-1240
FAX: (413) 784-1244

December 2, 2013

**Via Certified Mail, RRR and
First Class U.S. Mail**

[REDACTED]
[REDACTED]

Turners Falls, MA 01376

**Re: [REDACTED], Turners Falls, MA 01376
Notice of Intent to Seek Appointment of a Receiver**

Dear [REDACTED]:

This letter concerns the condition of the residential premises located at [REDACTED], Turners Falls, MA 01376. Public records indicate that you are a record owner of the property. If this is incorrect, please contact me immediately. There are a number of long-standing violations of the State Sanitary Code and other law at this property, which has been abandoned and vacant for a significant period of time.

In its present condition, the property is unfit for human habitation and poses a severe, immediate and continuing threat to the health and safety of trespassers, neighbors and the public in general, in violation of 105 CMR 410.750. For example, the building is not weather-tight leaving it vulnerable not only to rodent and vermin infestation but also to continuing deterioration, structural damage and mold from the elements. Also, there are a significant number of asbestos-like tiles that are not maintained in good repair in violation of the State Sanitary Code and the regulations of the Department of Environmental Protection. Further, the structural instability of the entrance stairways endanger unsuspecting trespassers and emergency personnel. Additionally, the property is not maintained free of rubbish and debris in a clean and sanitary manner, which poses a threat to the health and safety of the general public and also provides a refuge for rodents and vermin.

The State Sanitary Code and other applicable codes and applicable Massachusetts law allows this office and the Town of Montague to petition the appropriate court for the appointment of a receiver. ***Please be advised that, unless you contact this office within seven***

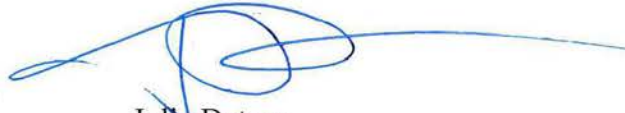
calendar days, a petition for appointment of a receiver will be filed with the Court pursuant to M.G.L. c.111, §127I (copy enclosed) and the court's general equity jurisdiction.

The Town has cited you for these violations and although some of the corrections have been made, significant Code violations are still in existence. As of this writing, a corrective plan to return the building to Code compliance has not been submitted to the Town.

Although we are willing to discuss a reasonable resolution of these violations, conditions require that we commence an action in short order to protect the public's interests should you fail or refuse to comply with your obligations under Massachusetts law as the property owner.

We look forward to your prompt reply.

Very truly yours,



Julie Datres
Special Assistant Attorney General
617-963-2578

cc: Town of Montague (via e-mail);
[REDACTED]

September 26, 2008

VIA CERTIFIED MAIL

[REDACTED]

Re: [REDACTED], Holyoke, Massachusetts

Dear Attorney [REDACTED]:

We understand that you are the attorney for [REDACTED] Bank, the current owner of the residential premises located at [REDACTED], Holyoke, Massachusetts. We also understand that you are authorized to accept service on behalf of the owner. Please confirm that you are, in fact, the attorney for the owner and that you are authorized to accept service on behalf of the current owner. Otherwise, we will serve [REDACTED] as owner in accordance with applicable law and rules of court.

As you are aware, there are a number of long-standing violations of the State Sanitary Code at the property which has been abandoned and vacant for a significant period of time. The state of the property poses an immediate danger to the public. The building continues to be a serious public health and safety threat. We understand that the City of Holyoke undertook emergency steps to secure the property, as prior efforts to secure the property were breached making this building an attraction and danger to trespassers. According to city officials, the property poses a fire threat in itself and to its neighbors. These dangers, in addition to the apparent risk posed by its structural integrity and health concerns created by trash and potential vermin infestation creates a risk to your neighbors and public. The problems must be addressed by the Estate of Angelo Sintose, as owner, immediately.

The State Sanitary Code and other local and state laws permits this office and the City of Holyoke to petition the appropriate court for the appointment of a receiver. *Please be advised that, unless you contact this office within ten calendar days of receipt of this letter, a petition for appointment of a receiver will be filed with the Court.* While we are certainly willing to work with the owner to resolve this serious issue, the state of the property requires that immediate measures

be undertaken to secure the property and bring this property into full compliance with applicable health, safety, building and fire codes.

Please contact the undersigned, immediately, upon receipt of this letter to discuss how you intend to address the issues. We can meet with you in our Boston office or our Springfield office, whichever is most convenient for the owner.

We are interested in meeting with you and your client, to discuss an amicable resolution of these problems. If you are unwilling to fulfill your legal responsibility to properly maintain the building or are unable to provide an alternative solution which will adequately protect your neighbors, the Office of the Attorney General is prepared to take legal action to seek enforcement of the State Sanitary Code, and may petition the Housing Court pursuant to Section 127I of G.L. c. 111 (copy enclosed) for the appointment of a receiver of the property.

We look forward to your prompt reply.

Very truly yours,

Matthew Q. Berge
Assistant Attorney General
Government Bureau/Trial Division
617-727-2200

May 25, 2008

[name of record owner]¹
[street address for mail delivery]
[city, state, zip code]

RE: **[abandoned property street address, city,] Massachusetts**
Health and Safety Code Violations

Dear [Name]:

I am sorry that you did not appear for our scheduled meeting this morning at (City Hall). City Solicitor Steven Torres and I waited from 11:00 a.m. through 12:10 p.m with the (City) Health Department official for you to arrive, but you did not.

I received your voice mail message from yesterday, asking to remind you of the location of the meeting since you had lost the paper upon which you wrote these details. I was not in the office yesterday and could not return your call. I did send a confirmatory letter with the details you requested, on May 21, 2008. I called you home this morning at approximately 9:40 a.m. and was told that you had been on the road for several hours. I informed the person answering the phone of my identity and said that I was on my way to (city) to meet with you.

Since there has been no other communication from you as of the writing of this letter, we shall proceed with the necessary enforcement action to rectify the problems at your property. As this matter will proceed to the court, you may wish to obtain an attorney. If so, we would be pleased to speak with your attorney or you, personally, if you do not wish to retain an attorney.

Very truly yours,

Matthew Q. Berge
Assistant Attorney General
Government Bureau/Trial Division
617-727-2200

¹ Letter sent immediately on the date of the missed meeting, to record events as they occurred. Note, despite this owner's failure to appear, the petitioners offer another opportunity to resolve the matter even as we commence court proceedings. Our intention is to impress upon this owner that we are sincere about exploring amicable resolution, however, given the state of this property, we required her cooperation immediately, within that week.

[Date]

VIA CERTIFIED MAIL

[Name and address of Creditor]

Re: (abandoned property address)

To Whom It May Concern:

This letter concerns the condition of the residential premises located at [address of abandoned property] which is owned by [owner's name]. Your institution is on record at the Registry of Deeds as being a creditor with a security interest on this property.

This property has several long-standing violations of the State Sanitary Code, including but not limited to the following [by way of example]:

1. abandonment with evidence of small fires which pose a serious risk to the health and safety of the abutters and residents of the community;
2. dangerous accumulation of combustible materials in the interior of the property;
3. trash and debris in the yard; and
4. inadequate sanitation facilities and electrical equipment.

On [date of demand letter to owner], we sent notice by certified mail to [owner] regarding the status of this property. This letter provided the owner with _ days notice requiring that he bring the subject property up to Code to avoid enforcement actions through the Housing Court. To date, [owner] has given no indication that he intends to undertake the repairs required to bring the property into compliance with the Code.

The Office of the Attorney General is hereby providing you notice, as a creditor with a recorded security interest on the property, that we intend to petition the Housing Court, pursuant to General Laws chapter 111, section 127I (copy enclosed), for the appointment of a receiver for the property at [address] on or after [date of anticipated filing].

If you should have any questions regarding the above procedure, or if you plan to have legal counsel attend same, please contact me to discuss the petition process.

Very truly yours,

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss:

HOUSING COURT DEPARTMENT
NORTHEAST DIVISION
Civil Action. No.

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS and
the CITY OF METHUEN

Petitioners,

v.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondents.

MOTION FOR ALTERNATIVE SERVICE OF PROCESS

Now comes Martha Coakley, Attorney General for the Commonwealth of Massachusetts (the "Commonwealth") and hereby requests that this court allow Commonwealth to proceed with alternative service of process in the above-referenced matter. As grounds for this motion, the Commonwealth states the following:

1. The petitioners are seeking enforcement of the State Sanitary Code Provisions on the property located at [REDACTED], Methuen, Massachusetts (the "Property").
2. Upon information and belief, the owner of the Property is respondent [REDACTED] ("Respondent").

3. The Property is abandoned and has numerous long-standing code violations which pose a serious risk to the health, safety, and well-being of abutters and residents of the community in which it is located.

4. Upon information and belief, Respondent [REDACTED] has a known mailing address at [REDACTED], Lawrence, MA 01844.

5. For efficiency, the Commonwealth respectfully requests that the Court enter an order pursuant to Mass.R.Civ.P. 4(d), allowing for service of the summons and Petition for Enforcement of the State Sanitary Code upon the Respondent [REDACTED] by certified mail, return receipt requested, and first class mail at [REDACTED], Lawrence, MA 01844, and by posting notice at the Property of its Petition for an Order for Enforcement of the State Sanitary Code and For Appointment of a Receiver.

6. The respondent [REDACTED] ("[REDACTED]") is upon information and belief a foreign corporation with [REDACTED] has a principal place of business located at [REDACTED], Mettawa, IL 60045 and has appointed CT Corporation System of 155 Federal Street, Suite 700, Boston, MA 02110 as its registered agent. Pursuant to G.L. c. 223A, § 3(e), this Court may exercise personal jurisdiction over [REDACTED] because [REDACTED] has an interest in real property within the Commonwealth.

7. For efficiency and in order to effect service at [REDACTED]'s known address, the Commonwealth respectfully requests that the Court enter an order pursuant to Mass.R.Civ.P. 4(d) and 4(e), allowing for service of the summons and Petition for Enforcement of the State Sanitary Code, by certified mail, return receipt requested, to Respondent [REDACTED] at its principal business address in Illinois and to its registered agent CT Corporation System, as well

as by posting notice at the Property of its Petition for an Order for Enforcement of the State Sanitary Code and For Appointment of a Receiver.

8. The respondent [REDACTED] ("[REDACTED]") is upon information and belief a domestic corporation with a place of business located at located at [REDACTED], Worcester, MA 01609 and has appointed [REDACTED] of [REDACTED], Sutton, MA 01590 as its registered agent. Pursuant to G.L. c. 223A, § 3(e), this Court may exercise personal jurisdiction over [REDACTED] because [REDACTED] has an interest in real property within the Commonwealth.

9. For efficiency and in order to effect service at [REDACTED]'s known address, the Commonwealth respectfully requests that the Court enter an order pursuant to Mass.R.Civ.P. 4(d), allowing for service of the summons, Petition for Enforcement of the State Sanitary Code, by certified mail, return receipt requested, to Respondent [REDACTED] at its principal business addresses and to its registered agent, as well as by posting notice at the Property of its Petition for an Order for Enforcement of the State Sanitary Code and For Appointment of a Receiver.

10. The respondent [REDACTED] ("[REDACTED]") is upon information and belief a foreign corporation with a principal place of business located at [REDACTED], Glen Allen, VA 23060. Pursuant to G.L. c. 223A, § 3(e), this Court may exercise personal jurisdiction over [REDACTED] because [REDACTED] has an interest in real property within the Commonwealth. Because the Secretary of State's records show that [REDACTED] does not maintain a registered agent for service of process within the Commonwealth, [REDACTED] is deemed to have appointed the Secretary of State as its agent for service of process pursuant to G.L. c. 156D, § 15.10(b).

11. For efficiency and in order to effect service at [REDACTED] known address, the Commonwealth respectfully requests that the Court enter an order pursuant to Mass.R.Civ.P. 4(e), allowing for service of the summons, Petition for Enforcement of the State Sanitary Code, by certified mail, return receipt requested, to Respondent [REDACTED] at its principal business addresses, as well as by posting notice at the Property of its Petition for an Order for Enforcement of the State Sanitary Code and For Appointment of a Receiver.

12. The Respondent [REDACTED] ("[REDACTED]") is a foreign corporation with a principal place of business located at [REDACTED], New York, NY 10179 and has appointed CT Corporation System of 155 Federal Street, Suite 700, Boston, MA 02110 as its registered agent. Pursuant to G.L. c. 223A, § 3(e), this Court may exercise personal jurisdiction over [REDACTED] because [REDACTED] has an interest in real property within the Commonwealth.

13. For efficiency and in order to effect service at [REDACTED]'s known address, the Commonwealth respectfully requests that the Court enter an order pursuant to Mass.R.Civ.P. 4(d) and 4(e), allowing for service of the summons, Petition for Enforcement of the State Sanitary Code, by certified mail, return receipt requested, to [REDACTED] at its principal business address and to its registered agent CT Corporation System, as well as by posting notice at the Property of its Petition for an Order for Enforcement of the State Sanitary Code and For Appointment of a Receiver.

WHEREFORE, the petitioner requests this court allow alternative service of process.

Respectfully submitted,

MARTHA COAKLEY
ATTORNEY GENERAL

By her Attorney



Edmund Donnelly BBO# 676889
Assistant Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2048
ed.donnelly@state.ma.us

Dated: August 14, 2013.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

DISTRICT COURTS DEPARTMENT
SOMERVILLE DIVISION
C.A. NO.

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS and
the CITY OF SOMERVILLE

Petitioners,

v.

[REDACTED]

Respondents.

MOTION FOR ALTERNATIVE SERVICE OF PROCESS

Now comes Martha Coakley, Attorney General for the Commonwealth of Massachusetts (the "Commonwealth") and hereby requests that this court allow Commonwealth to proceed with alternative service of process in the above-referenced matter. As grounds for this motion, the Commonwealth states the following:

1. The petitioners are seeking enforcement of the State Sanitary Code Provisions on the property located at [REDACTED], Somerville, Massachusetts (the "Property").

2. The owners of record of the Property are the Estates of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], their Heirs, Successors or Assigns, Known and Unknown, if any.



WHEREFORE, the petitioner requests this court allow alternative service of process in the manner set forth herein.

Respectfully submitted,

MARTHA COAKLEY
ATTORNEY GENERAL

By her Attorney

A handwritten signature in dark ink, appearing to read 'S. Wylie', is written over a horizontal line.

Susika Wylie BBO# 675838
Assistant Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2806

Dated: June 27, 2013.

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss:

HOUSING COURT DEPARTMENT
NORTHEAST DIVISION
Civil Action. No.

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS and
the CITY OF METHUEN

Petitioners,

v.

[REDACTED]

Respondents.

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR ALTERNATIVE SERVICE OF PROCESS FOR RESPONDENT [REDACTED]
[REDACTED], HER HEIRS, SUCCESSORS OR ASSIGNS**

This is an action by Martha Coakley, Attorney General for the Commonwealth of Massachusetts (“Petitioner”), petitioning the Court for an order to enforce the state sanitary code and for appointment of a receiver for residential property located at [REDACTED], Methuen, Massachusetts. The Attorney General is authorized by the state sanitary code, G.L. c.111, §127I, to seek this relief from the Court. The Attorney General’s petition will also invoke the Court’s general equity jurisdiction, G.L. c. 185C, §3. The Attorney General’s petition is based upon long-standing violations of the sanitary code, in addition to violations of the applicable building, fire and other health codes at the Subject Premises. These serious and continuing violations pose a risk to the health and safety of the neighbors and other community members unless they are

abated by the owner or by a receiver appointed by the Court.

The record owner of the property is [REDACTED], her heirs, successors or assigns. Ms. [REDACTED] passed away intestate on November 25, 2008. The Petitioner has attempted to contact all known heirs of Ms. [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (the “known heirs”). The Petitioner has communicated with one of the known heirs of Ms. [REDACTED], Mr. [REDACTED]. The Petitioner has learned that none of the known heirs of Ms. [REDACTED] took title to the property upon her death because none of the heirs could afford the financial obligations of the property. No other heirs are known to the Petitioner, and Ms. [REDACTED]’s sons are unaware of any other heirs.

LEGAL ARGUMENT

Mass.R.Civ.P. 4(d)(1) provides the rules for personal service of the original summons and complaint. Included in this rule is a provision for occasions for which defendants cannot be located:

“....If the person authorized to serve process makes return that after diligent search he can find neither the defendant, nor defendant’s last and usual abode, nor any agent upon whom service may be made..., the court may on application of the plaintiff issue an order of notice in the manner and form prescribed by law.”

Mass.R.Civ.P. 4(d)(1). Here, all of the individuals who have an interest in the Property cannot be located or even identified, despite the diligent efforts taken by the Attorney General’s Office to locate this Property owner. Thus, the Court should exercise the discretion granted by the cited rule and provide for an alternative mode of service.

In the instant case, the Respondent is a deceased parent with known heirs, as well as potentially unknown heirs. Thus, the due process analysis for the respondents involves the rights of two distinct groups: the known heirs of Ms. [REDACTED], and any unknown heirs of Ms. [REDACTED]. To satisfy the constitutional requirements of due process, the government must provide “notice

reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). In Mullane, the Supreme Court discusses the limits of due process and the alternatives to actual notice with respect to trusts created by state law. Further, the court explains that some flexibility may be required regarding notice depending on the circumstances: “reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected or... that the form chosen is not substantially less likely to bring home notice than other of the feasible and customary substitutes.” Mullane, 339 U.S. at 315.

The known heirs of Ms. [REDACTED] have declined to exercise their ownership interest in the property. In such situations, the Court notes that “[a] state may indulge the assumption that one who has left tangible property in the state either has abandoned it, in which case proceedings against it deprive him of nothing, ..., or that he has left some caretaker under a duty to let him know that it is being jeopardized.” Mullane 339 U.S. at 316 (citations omitted). The known heirs, therefore, are not entitled to any notice since, by abandonment of the property, these heirs are deprived of nothing. Mullane at 316, *citing* Ballard v. Hunter, 204 U.S. 241 (1907). The relief sought by the Petitioner deprives the owner of no property interest, so due process does not require that notice be provided. *Id.* However, in the interests of justice, the Petitioner seeks service of the summons and Petition for an Order for Enforcement of the State Sanitary Code and for Appointment of a Receiver by certified, return receipt requested, first class mail, by posting at the property and by publication in a newspaper serving the City of Methuen.

While the Petitioner has attempted to locate all known heirs of Ms. [REDACTED], the possibility exists, however remote, that other heirs of Ms. [REDACTED] exist other than the known heirs already identified. The law permits that service be made and due process satisfied by

publication in an effort to identify unknown heirs of an individual. *See Matter of Jones*, 379 Mass. 826, 836-38. In *Matter of Jones*, the Court dealt with the issue of providing notice to the unascertained heirs of a woman who had become a ward of the state when that woman's conservator petitioned the court for the approval of an estate plan that potentially jeopardized the financial interests of those unknown heirs. *Id.* The court stated that "due process does not 'demand the impossible...as a practical matter it is impossible to mail [a citation] to a person whose identity cannot with reasonable diligence be ascertained.'" *Id.* at 836, *quoting Young v. Tudor*, 323 Mass. 508, 514 (1948). The conservator believed the woman had no heirs based on his thirty-year friendship with the woman and her deceased husband. *Id.* The court allowed notice to be provided to these hypothetical heirs by publication since the conservator had personal knowledge that no heirs existed and lacked any information which, "if pursued, might have led to the discovery of kindred." *Id.* The issues raised in *Matter of Jones* touch squarely on the notice issues raised by the naming of heirs, successors or assigns in the instant case. No knowledge of unknown heirs exists and no information is known which could reasonably lead to the discovery of any heirs. As a result, notice by publication of unknown heirs of Ms. [REDACTED] is proper.

Ultimately, when a party cannot be located for service of process, "[i]t is well established that where it is impossible to ensure interested parties receive actual notice--as when the identities or addresses of those parties are unknown-- 'even a probably futile means of notification (such as notice by publication) is all that the situation permits and creates no constitutional bar to a final decree foreclosing their rights.'" *Town of Andover v. State Financial Services, Inc.*, 48 Mass. App. Ct. 536, 540 (2000), *citing Mullane*, 339 U.S. at 317. The problem remains that the owner does nothing to abate the serious code violations, to the detriment of his neighbors, while at the same time cannot be located for personal service. To remedy this

situation, while satisfying the constitutional requirements of due process, the Petitioner requests service by (1) posting at the property; (2) publication in a newspaper serving the City of Methuen; and (3) by mailing to all known heirs of Ms. [REDACTED] the summons and Petition for an Order for Enforcement of the State Sanitary Code and for Appointment of a Receiver by certified, return receipt requested, and first class mail.

CONCLUSION

Based upon the foregoing, the Court should exercise its discretion and permit the Petitioner to render service by (1) posting at the property; (2) publication in a newspaper serving the City of Methuen; and (3) by mailing to all known heirs of Ms. [REDACTED] the summons and Petition for an Order for Enforcement of the State Sanitary Code and for Appointment of a Receiver by certified, return receipt requested, and first class mail.

Respectfully submitted,

MARTHA COAKLEY
ATTORNEY GENERAL
By her Attorney

Edmund Donnelly BBO# 676889
Assistant Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2048

Dated: February 4, 2013.

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss:

HOUSING COURT DEPARTMENT
NORTHEAST DIVISION
Civil Action. No.

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS and
the CITY OF METHUEN

Petitioners,

v.



Respondents.

AFFIDAVIT OF NANCY WARD

NANCY WARD for her affidavit under oath states:

1. I am an investigator in the Massachusetts Attorney General's Office. I have held this position for the past twenty one years. In that position, I am responsible for providing investigative support for civil actions filed by the Attorney General, including deed research.
2. On November 8, 2012, I utilized the Essex North County Registry of Deeds to perform a search to gather information regarding the owners or any outstanding lien holders for the

property located at [REDACTED], Methuen, Massachusetts (the "Property"), as set forth in this affidavit.

3. My search revealed that on December 27, 2002, [REDACTED] deeded the Property to [REDACTED], for consideration paid.
4. On December 27, 2002, [REDACTED] granted a mortgage in the sum of \$174,900 to [REDACTED] for the property located at [REDACTED]. This mortgage was recorded on December 30, 2002. My subsequent investigation revealed that [REDACTED] has a principal place of business of [REDACTED] West, Branchburg, NJ 08876.
5. On June 19, 2003, [REDACTED] granted a mortgage in the sum of \$80,000 to [REDACTED] for the property located at [REDACTED]. This mortgage was recorded on July 10, 2003. My subsequent investigation revealed that [REDACTED] is now doing business as [REDACTED] and has a principal place of business of [REDACTED], Providence, RI 02903.
6. On August 3, 2008, Linda Sharron granted a mortgage in the sum of \$120,000 to [REDACTED] for the property located at [REDACTED]. This mortgage was recorded on August 17, 2006. My subsequent investigation revealed that [REDACTED] is now doing business as [REDACTED] and has a principal place of business of [REDACTED], Providence, RI 02903.
7. On November 25, 2008, Ms. [REDACTED] passed away. My investigation revealed that Ms. [REDACTED] died intestate leaving four sons as heirs: [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. None of these heirs have taken title to the property through the probating of the estate.

8. I was unable to identify any other individual with an interest in the property.

Signed under pains and penalties of perjury this ____ day of February, 2013.

Nancy Ward
Investigator

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss:

HOUSING COURT DEPARTMENT
WORCESTER DIVISION
Civil Action No. [REDACTED]

ATTORNEY GENERAL for the
COMMONWEALTH OF
MASSACHUSETTS and the CITY OF
WORCESTER,

Petitioners,

v.

[REDACTED]
Respondents.

NOTICE OF HEARING

Please take notice that the undersigned will bring the above-referenced action before the Worcester Housing Court for a hearing on **Wednesday, February 26, 2014 at 9:00 a.m.** or as soon thereafter as counsel can be heard. The purpose of the hearing is to address the merits of the Petition to Enforce the State Sanitary Code and for Appointment of a Receiver, and to allow counsel for respondent [REDACTED] to propose a plan for the repair of the property located at [REDACTED], Worcester, Massachusetts.

As reasons therefor, the Petitioners state that they have been informed that no judge will be available to hear Housing Court matters on February 19, 2014. The Petitioners hereby request that the matter be further heard before this Court on **Wednesday, February 26, 2014 at 9:00 a.m.**

Respectfully submitted,

MARTHA COAKLEY
ATTORNEY GENERAL

By her Attorney,

Kiernan E. Reed, BBO # 672249

Assistant Attorney General

10 Mechanic St., Suite 301

Worcester, MA 01608

(508) 792-7600 ext. 4405

kiernan.reed@state.ma.us

Date: February 7, 2014

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

DISTRICT COURT DEPARTMENT
SOMERVILLE DIVISION
Civil Action. No.

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS and
the CITY OF SOMERVILLE

Petitioners,

v.

[REDACTED], as owner of
record of the property located at [REDACTED]
[REDACTED], Somerville, MA

and

[REDACTED], as owner of record of
the property located at [REDACTED],
Somerville, MA

and

[REDACTED], as a
mortgagee or party with an interest in the property
located at [REDACTED], Somerville,
MA

Respondents.

AFFIDAVIT OF SERVICE

I, Assistant Attorney General Susika Wylie, do hereby state the following to be true to the best of my knowledge:

1. I am a member in good standing of the bar of this Commonwealth.
2. I am appearing on behalf of the Petitioner, Attorney General for the Commonwealth of Massachusetts;

3. I am assigned to work with the City of Somerville (the "City") regarding the City's inventory of abandoned homes that are in violation of the Department of Public Health's Sanitary Code: 105 C.M.R. 410.00, et seq.
4. One of these abandoned homes is [REDACTED], Somerville, Massachusetts, ("the Property") which is the subject of the above-captioned petition.
5. On December 13, 2012, the Court allowed the Attorney General's motion for alternative service in the above-captioned petition. Specifically, the Court ordered the Petitioner to publish an order of notice in one issue of the Somerville Journal notifying anyone with an interest in the property that the Attorney General had commenced an action seeking to appoint a receiver to the Property. The court also ordered the Petitioner to serve the Respondents [REDACTED] through its business agent of record: [REDACTED], Manchester, CT 06040, and also to [REDACTED] at his last known address of record, [REDACTED], Somerville, MA 02145, via certified mail RRR, and First Class Mail.
6. On December 27, 2012, the notice ran in the Somerville Journal. A copy of the notice is attached to this affidavit as **Exhibit A**.
7. On or about December 21, 2012, I mailed a copy of the summons, petition packet, and cover letter to [REDACTED], via first class mail and via certified mail, return receipt requested to its business agent of record, [REDACTED]. On or around December 24, 2012, [REDACTED] accepted delivery of the packet. A copy of this receipt is attached as **Exhibit B**.

8. On or around December 21, 2012, I mailed a copy of the summons, petition packet, and cover letter to [REDACTED], via first class mail and via certified mail, return receipt requested. On or around January 8, 2013, the certified mail was returned back to my office, unclaimed and unable to forward. According to records kept by USPS, the addressee moved and left no forwarding address. However, the first class mail was not returned. A copy of the unclaimed receipt is attached as **Exhibit C**.

Signed under the pains and penalties of perjury this ____ day of February, 2014.

Susika Wylie
Assistant Attorney General

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

DISTRICT COURTS DEPARTMENT
SOMERVILLE DIVISION
C.A. NO.

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS and
THE CITY OF MEDFORD

Petitioners,

v.

██████████ as owner of the property
located at ██████████, Medford,
Massachusetts

Respondent.

MOTION TO REDUCE TIME FOR NOTICE
TO RESPONDENT

Now come the petitioners in the above-captioned action and move for an Order reducing the amount of time for petitioner's notice to Respondent ██████████ ("██████████"), pursuant to G.L. c.111 sec. 127I (as amended, second paragraph).

As grounds therefore, the petitioners states the following:

1. The property located at ██████████, Medford, MA ("the Property"), is abandoned with numerous, long-standing Code violations which pose a serious risk to the health, safety and well-being of abutters and residents of the community.
2. The petitioner seeks the appointment of a receiver in order to bring the Property into compliance with the Sanitary Code.
3. To provide the full 14 day notice to Respondent ██████████ would be inappropriate for the following reasons:
 - a. There is an immediate risk to the health and. safety of abutters and residents of the community, including the students, faculty and staff of the ██████████ Elementary School located directly across the street from the Property;
 - b. To provide opportunity to repair and stabilize the Property, it is necessary for the Court to appoint a receiver in an expedited manner.

WHEREFORE, the petitioners request leave of court to give Respondent 7 days' notice of a hearing to be held on **May 29, 2013** on the Commonwealth's Petition to Enforce the Sanitary Code and For Appointment of a Receiver to be mailed by certified mail, return receipt requested, on May 22, 2013.

Respectfully Submitted
by the Petitioner

MARTHA COAKLEY,
ATTORNEY GENERAL
By her attorney

Edmund Donnelly

BBO# 676889
Assistant Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2048

Date: May 17, 2013

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

TRIAL COURT
HOUSING COURT DEPARTMENT
CITY OF BOSTON
C.A. NO.

ATTORNEY GENERAL FOR THE
COMMONWEALTH OF MASSACHUSETTS,

vs.

Respondents

)
)
)
)
)
)
)
)
)
)

MOTION TO REDUCE TIME FOR NOTICE
TO MORTGAGEES AND LIENORS

Now come the petitioners in the above-captioned action and move for an Order reducing the amount of time for petitioner's notice to mortgagees and lienors of record, pursuant to G.L. c.111 sec. 127I (as amended, second paragraph).

As grounds therefore, the petitioners states the following:

1. The property located at [**address, city**] MA, is abandoned with no management whatsoever ("the Property").
2. The Property has numerous, long-standing Code violations which pose a serious risk to the health, safety and well-being of abutters and residents of the community.
3. The petitioner seeks the appointment of a receiver in order to bring the Property into compliance with the Sanitary Code.
4. To provide the full 14 day notice to current mortgagees and lienors of record would be inappropriate for the following reasons:
 - (a) There is an immediate risk to the health and. safety of abutters and residents of the community;
 - (b) To provide .opportunity to repair and stabilize the Property, it is necessary for the Court to appoint a receiver in an expedited manner.

WHEREFORE, the petitioners request leave of court to give all mortgagees and lienors of record known to the petitioner 10 days notice of a hearing on the Commonwealth's Petition to Enforce the Sanitary Code and For Appointment of a Receiver to be mailed by certified mail, return receipt requested, on July 2, 2008.

Respectfully submitted,

The Petitioner,
MARTHA COAKLEY
ATTORNEY GENERAL

By its Attorney,

Stuart T. Rossman
Assistant Attorney General
ADDRESS
ADDRESS
TELEPHONE
BB0#

Dated: _____

SEARCH WARRANT

G.L. c.276, s1-7

TRIAL COURT OF MASSACHUSETTS

DISTRICT COURT DEPARTMENT

BROCKTON DIVISION

SEARCH WARRANT DOCKET # [REDACTED]

To the sheriffs of our several counties, or their deputies, any State Police Officer, or any Constable or Police Officer of any city or town within our said Commonwealth:

Proof by affidavit, which is hereby incorporated by reference, having been made this day before me, that there is probable cause for believing that the property described below:

has been stolen, embezzled, or obtained by false pretenses

is intended for use or has been used as the means of committing a crime

X has been concealed to prevent a crime from being discovered

is unlawfully possessed or kept or concealed for an unlawful purpose

X is evidence of a crime or is evidence of criminal activity

X other (specify) : is hampering with the quality of life of residents.

You are therefore commanded within a reasonable time and in no event later than seven days from issuance of this search warrant to search the following property for: **Violations of the state sanitary code, fire prevention regulations, building code violations, zoning ordinances and other city ordinances and well as the well being of animals on site.**

At: [REDACTED], **Brockton, MA. 02301** A vacant and abandoned three family property containing 3903 square feet of living space on .146 acres as described in city assessors records.

and which is occupied by and/or in the possession of: [REDACTED]

Ft Mills, SC

You ☐ are X are not also authorized to conduct the search at any time during the night.

You ☐ are X are not also authorized to enter the premises without announcement.

You ☐ are X are not also commanded to search any person present who may be found to have such property in his or her possession or under his or her control or to whom such property may have been delivered.

YOU ARE FURTHER COMMANDED if you find any such property or any part thereof to bring it, and when appropriate, the persons in whose possession it is found before the BROCKTON DIVISION of the DISTRICT COURT DEPARTMENT.

I ☐ have X have not previously submitted the same application.

Oct 15, 2012
Date Issued

[Signature]
Signature of Justice, Clerk Magistrate or Assistant Clerk Magistrate

First or Administrative Justice

Printed Name of Justice, Clerk Magistrate or Assistant Clerk Magistrate

WITNESS: Paul C. Dawley

Kevin M. Leach

COPY



Police Department
7 Commercial Street
City of Brockton, Massachusetts 02302-2702

Telephone (508) 941-0200

Docket #-----

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

I Scott D. Uhlman a duly sworn Police Officer in the City of Brockton, holding this position for approximately 24 years. I am currently assigned as the Code Enforcement Officer and work with Code Enforcement Task Force as well as the receivership Task Force.

An administrative search warrant is requested for the property located at and known as:

[REDACTED], Brockton. The building is a three story wood frame construction, containing 3903 square feet in living space and was built around 1907. This property is situated on .146 acres of land and at this time is a vacant building in disrepair.

The purpose of the warrant is for inspector(s) of Brockton Fire Department, Brockton Police Department, Brockton Board of Health, Brockton Animal Control and Brockton Building Department which also includes the Plumbing and Wiring Departments, along with two quasi governmental agencies – Brockton Redevelopment Authority including members of the Receivership Task Force, and their agents and representatives and Massachusetts Attorney General's Office be allowed to enter the said property to inspect for violations of the respective codes and make appropriate notes for a possible receivership action.

Inspections will be conducted under powers pursuant to M.G.L. c. 111, § 127A and 105 CMR 410 for health officials, M.G.L. c.143, § 93 and 780 CMR for building officials, M.G.L. c. 148, § 28 and 527CMR for fire officials, M G.L. c. 142, § 13 and 248 C.M.R. 2.01(1) for plumbing inspectors and 527 CMR 12.00 for wiring inspectors

The City of Brockton has established a Housing Receivership Task Force. It is the desire of the city that it take advantage of Chapter 111, Section 127 I of the Massachusetts General Laws, which provides the opportunity to inspect problem residential and commercial properties throughout this urban city of some 92,000 persons.

The housing receivership law is a last ditch effort after it has exhausted all other avenues with egregious properties that have a long history of code violations and in often cases numerous public safety complaints. It is the nuisance properties – the illegal rooming houses, the vacant and abandoned properties – that the city is targeting under this program.

The Task Force unites in a common goal the efforts of the Brockton Fire Department, Brockton Police Department, the Brockton Board of Health, and Brockton Building Department which also includes the

Plumbing and Wiring Departments, along with two quasi governmental agencies – Build a Better Brockton and the Southeast Massachusetts Affordable Housing Corporation. All of who work in conjunction with The Massachusetts Attorney General's Office.

Attached is the City Assessors record. The building is pictured on this document. The footprint of the building is also described on this document.

The building is owned by:



This property is owned by a financial institute who is an absentee owner of parts unknown and the property is vacant and in disrepair.

I or members of the Receivership Task Force have attempted to contact a representative of the owner only to get lost numerous times in a maze of electronic answering devices and therefore could not request permission for the task force to enter the property for inspection of same in order to document conditions for a possible receivership action.

This property is vacant and has been for several years. It is the belief of this officer that the building lacks basic human needs such as electricity, water, fire alarm and fuel for heating systems and in its current condition cannot be inhabited and causes harm to the neighborhood.

From outside observations the building has violations of one or more of the following codes of the building code 780 CMR, the fire code 527 CMR and the state sanitary code 105 CMR as well as a city ordinance designed to control nuisances which include a limit on time a building can be boarded.

Based on the aforementioned facts we ask this court issue said administrative warrant.

Respectfully submitted and signed under the pains and penalties of perjury.

A handwritten signature in cursive script, reading "Officer Scott D. Uhlman".

Officer Scott D. Uhlman

Code Enforcement Officer/License Agent
Brockton Police Department

October 15, 2012

Sworn and Subscribed to before:

Signature of Justice –Clerk Magistrate or Assistant Clerk

Date: _____

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss:

HOUSING COURT DEPARTMENT
WORCESTER DIVISION
Civil Action No.

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS and
the TOWN OF ATHOL,

Petitioners,

v.

[REDACTED] as co-owner of the property
located at [REDACTED], Athol, Massachusetts;

[REDACTED] as co-owner of the property
located at [REDACTED], Athol, Massachusetts;

[REDACTED] as mortgagee and
party with an interest in the property located at [REDACTED]
[REDACTED], Athol, Massachusetts; and

[REDACTED] as
mortgagee and party with an interest in the property
located at [REDACTED], Athol, Massachusetts,

Respondents.

**PETITION TO ENFORCE THE STATE SANITARY CODE
AND FOR APPOINTMENT OF A RECEIVER**

This is a petition by Martha Coakley, Attorney General for the Commonwealth of Massachusetts, and the Town of Athol, seeking enforcement of the State Sanitary Code (the "Code"). The Attorney General and Town of Athol assert that the property owned by respondents [REDACTED] and [REDACTED] has numerous long-standing Code violations which pose a serious risk to the health, safety and well-being of abutters, trespassers, emergency

responders and residents of the community, thereby justifying the Court's exercise of its statutory authority and general equity power to appoint a receiver for the purpose of making those repairs necessary to protect the public health and safety and that are in the best interests of the property.

JURISDICTION AND PARTIES

1. The jurisdiction of this court is founded upon the State Sanitary Code, G.L. c. 111, § 127I and the court's equity jurisdiction under G.L. c. 185C, § 3.

2. The petitioner, the Attorney General for the Commonwealth of Massachusetts (the "Commonwealth"), is a public official and the Commonwealth's chief law enforcement officer under the constitution and laws of the Commonwealth of Massachusetts.

3. The petitioner, the Town of Athol (the "Town" and, with the Commonwealth, "Petitioners"), is a municipal corporation under the constitution and laws of the Commonwealth of Massachusetts.

4. The respondent [REDACTED] ("[REDACTED]") is a natural person with a last known mailing address of [REDACTED], Dorchester Center, MA 02124. Walsh is the co-owner of record of the property located at [REDACTED], Athol, Massachusetts. *See* Exhibit I, Affidavit of Nancy Ward ("Ward Aff.") at ¶¶ 3, 8, 12.

5. The respondent [REDACTED] ("[REDACTED]") is a natural person with a last known mailing address of [REDACTED], Dorchester, MA 02121. Jaynes is the co-owner of record of the property located at [REDACTED], Athol, Massachusetts. *See id.*

6. The respondent [REDACTED]
[REDACTED]
[REDACTED] ("[REDACTED]") is a foreign corporation which holds a mortgage covered by the property owned by

█████ and █████. According to the records of the Secretary of State, █████ has appointed CT Corporation System, 155 Federal St., Suite 700, Boston, MA 02110 as its Resident Agent for service of process within the Commonwealth. *See* Ward Aff. at ¶¶ 6, 9. Pursuant to G.L. c. 223A, § 3(e), this Court may exercise personal jurisdiction over █████, because █████ has an interest in real property within the Commonwealth.

7. The respondent █████ (“█████”) is a foreign corporation which holds a mortgage covered by the property owned by █████ and █████. *See* Ward Aff. at ¶¶ 4, 7. Upon information and belief, █████ withdrew from doing business within the Commonwealth in 2009 and no longer maintains a Resident Agent for service of process within the Commonwealth; therefore, █████ is deemed to have appointed the Secretary of State as its agent for service of process pursuant to G.L. c. 156D, § 15.10(b). *See* Exhibit II, Affidavit of Kiernan E. Reed (“Reed Aff.”) at ¶ 10. Pursuant to G.L. c. 223A, § 3(e), this Court may still exercise personal jurisdiction over █████, because █████ has an interest in real property within the Commonwealth.

FACTUAL ALLEGATIONS

8. The property that is the subject of this Petition is located at █████, Athol, Massachusetts (the “Property”). Respondents █████ and █████ are the record owners of the Property, which in its present condition is unfit for human habitation and endangers or materially impairs the health, safety, and well-being of occupants, neighbors, and/or the public. *See* 105 CMR 410.750.

9. The Property is not secured against unlawful entry in violation of 105 CMR 410.480(A and E), allowing easy access for trespassers and/or vermin. *See* Exhibit III, Affidavit of Deborah Karan (“Karan Aff.”) at ¶¶ 6(a), 7-11.

10. The Property is not weather-tight due to the open doors and open/broken windows in violation of 105 CMR 410.501(A)(1), creating the potential for water damage and mold growth. *See* Karan Aff. at ¶¶ 6(b), 7-11.

11. The Property's interior and exterior contain a significant accumulation of trash, rubbish, and debris in violation of 105 CMR 410.602(A and B), creating conditions favorable for vermin. *See* Karan Aff. at ¶¶ 6(c), 7-11.

12. The Property is believed to have damaged interior walls and floors in violation of 105 CMR 410.500. *See* Karan Aff. at ¶ 4.

13. The Property's present condition creates a significant risk of harm to the public's health and safety, including without limitation the Property's neighbors, trespassers and any unauthorized occupants who may use this property for shelter or to engage in any illegal activities, and to emergency personnel who may be called to respond to any call to service at this Property. As such, it constitutes a public nuisance which, left unabated, justifies civil enforcement at common law, in addition to remedies otherwise provided by statute.

14. On September 24, 2012, the Office of the Attorney General issued a certified letter to the Respondents, describing the conditions present at the Property and the Commonwealth's intent to file a receivership case should the Respondents fail to bring the Property back into compliance with the Code. Respondents [REDACTED] and [REDACTED] do not appear to have received this letter, and the Office of the Attorney General has been unable to locate alternate contact information for Ms. [REDACTED]. *See* Reed Aff. at ¶ 6; *see* Ward Aff. at ¶ 12.

15. Respondent [REDACTED] never responded in any way to the Attorney General's letter, except to indicate through CT Corporation System that it no longer did business in

Massachusetts and that CT Corporation System could no longer accept service on [REDACTED]'s behalf. *See* Reed Aff. at ¶¶ 9-10.

16. Respondent [REDACTED] did respond to the Attorney General's letter, through its attorneys, and indicated that it would ensure that the Code violations at the Property were remedied during the pending foreclosure proceeding. However, subsequent site visits revealed that despite the work allegedly performed by [REDACTED], the Property still exhibited multiple Code violations posing a severe threat to the public health and safety. *See* Reed Aff. at ¶¶ 13-15; *see* Karan Aff. at ¶¶ 8-11.

17. The Respondents' failure to restore the Property to full compliance with the Code poses an immediate danger to the health, safety and well-being of the abutters and general public. The possibility of vandalism, trespass and other illegal activities pose a significant risk that the Property will be destroyed beyond repair without this Court's intervention and the appointment of a receiver. Unless action is taken immediately, the conditions will continue unabated, and the public will continue to face risks to its safety as this property continues to deteriorate.

18. In order to determine the scope and cost of the work required to restore the Property to compliance with all applicable codes, any potential receiver must be permitted to access the Property's interior and exterior for the purpose of conducting a full inspection. *See* Exhibit IV, Affidavit of Michael O'Rourke ("O'Rourke Aff.") at ¶¶ 6-7.

RELIEF REQUESTED

WHEREFORE, the Attorney General respectfully requests this court to:

1. Schedule a hearing for the appointment of a receiver for the Property;

2. Appoint a receiver for the Property pursuant to the Court's general equitable powers and G.L. c. 111, § 127I for the limited purpose of accessing the exterior and interior of the Property and conducting an inspection to assess the feasibility of repairs that will be necessary to bring the Property into conformity with the State Sanitary Code and other applicable codes and ordinances;

3. Grant such additional relief as the Court deems just and proper.

Respectfully submitted,

MARTHA COAKLEY
ATTORNEY GENERAL
By her Attorney,

Kiernan E. Reed, BBO # 672249

Assistant Attorney General
10 Mechanic St., Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4405
kiernan.reed@state.ma.us

TOWN OF ATHOL
By its Attorney of Record

Mark A. Goldstein, BBO # 558973
Town Counsel
Law Office of Mark A. Goldstein
144 Central St.
Gardner, MA 01440
(978) 632-1025
mgoldstein@markgoldsteinlaw.com

Dated: May __, 2013.

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss:

HOUSING COURT DEPARTMENT
WORCESTER DIVISION
Civil Action No. [REDACTED]

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS
and the TOWN OF ATHOL,

Petitioners,

v.

[REDACTED] as co-owner of the property
located at [REDACTED], Athol,
Massachusetts; [REDACTED] as co-owner
of the property located at [REDACTED],
Athol, Massachusetts; [REDACTED]

[REDACTED] as mortgagee and party
with an interest in the property located at [REDACTED]
[REDACTED], Athol, Massachusetts; and
[REDACTED].

[REDACTED] as mortgagee and party with an interest in the
property located at [REDACTED], Athol,
Massachusetts,

Respondents.

**PROPOSED ORDER ON THE PETITION TO ENFORCE THE STATE SANITARY
CODE AND FOR APPOINTMENT OF A RECEIVER**

- 1. Introduction:** Pursuant to G.L. c. 111 § 127I and the general equity powers of this Court, following a hearing on June 18, 2013, with respect to the violations of the State Sanitary Code, 105 CMR 410 *et seq.* (“Code”), at the Property located at [REDACTED], Athol, Massachusetts (the “Property”), the Court finds that unless a receiver is appointed these violations will not be promptly remedied, and that such appointment is in the best interest of the Property and of the public.

2. **Parties:** The Petitioner in this action, the Attorney General for the Commonwealth of Massachusetts is a public official under the constitution and laws of the Commonwealth of Massachusetts. The Petitioner, the Town of Athol (the “Town”), is a municipal corporation under the laws of the Commonwealth of Massachusetts (collectively, “Petitioners”). The respondents are [REDACTED] (“[REDACTED]”) and [REDACTED] (“[REDACTED]”), title holders of record; [REDACTED] (“[REDACTED]”), as mortgagee of record; and [REDACTED] (“[REDACTED]”), as mortgagee of record (collectively, “Respondents”).

3. **Procedural Posture:** The Property is an abandoned and vacant single-family dwelling which fails to meet the minimum standards of decency for human habitation. By certified letter dated September 24, 2012, the above-referenced violations were brought to the attention of the Respondents. The Respondents were notified of the Petitioners’ intention to seek enforcement of the Code and that Petitioners may petition the Court for appointment of a receiver. To date, the Respondents have failed to undertake or are not capable of undertaking the repairs required to bring the Property into compliance with the Code.

On May 29, 2013, the Petitioners filed this action, seeking the enforcement of the Code and the appointment of Worcester County Management Corp., 53 Blue Bell Rd., Worcester, MA 01606 as receiver of the property.

On May 31, 2013, the Petitioners provided Respondents [REDACTED], [REDACTED], and [REDACTED] with notice of the hearing on the Petition by delivering a copy of the summons and order of notice, together with the Petition and all supporting documents, to [REDACTED] at his last and usual place of abode; in hand to CT Corporation System, Boston, Massachusetts, as registered agent for [REDACTED] and in hand to the Massachusetts Secretary of State on behalf of [REDACTED] which does not currently maintain a registered agent for service of process within the Commonwealth.

On June 11, 2013 and June 13, 2013, the Petitioners provided Respondent [REDACTED] with notice of the hearing on the Petition by posting a legal notice on the front door of the Property and by publishing a legal notice in the Athol Daily News, as allowed by this Court on May 29, 2013.

4. **Description and Condition of the Premises:** The Property is an unoccupied single-family dwelling which has been left vacant and abandoned by the respondents for over a year. It has numerous long standing Code violations which pose a serious risk to the health, safety and well being of abutters and residents of the community, and render the Property unfit for human habitation. For example, the Property contains a significant accumulation of trash, rubbish, and debris in violation of 105 CMR 410.602 and 410.750(I), creating conditions favorable for attracting and harboring vermin. Additionally, the Property is not secured against unlawful entry and is not

“weather tight” in violation of 105 CMR 410.480(A) and (E) and 410.501(A)(1). The Code violations present at the Property have the ability to impact the health and safety of the occupants of neighboring homes and the public in general.

The present abandoned state of the Property creates a high risk of vandalism, trespass, fire damage and personal injury to abutters and residents of the community. As the Property continues to deteriorate and create greater risks to the general public, there is also a significant risk that it will be destroyed beyond repair without the intervention of this court.

THEREFORE, following a hearing held on June 18, 2013, the Court hereby orders as follows:

5. **Receiver:** Worcester County Management Corp., 53 Blue Bell Rd., Worcester, MA 01606 is hereby appointed Receiver of the Property (“Receiver”). This appointment is effective upon the signing of this Order, and will last two hundred and forty (240) days, subject to extensions granted by the Court upon a showing of good cause by the Receiver or other party with an interest in these proceedings.
6. **Authority and Duties of Receiver:** The authority and duties of the Receiver shall be as follows:
 - a) Promptly repair the Property and maintain it in a safe and healthful condition.
 - b) Employ companies, persons or agents to perform its duties hereunder.
 - c) Deposit all amounts received on account of the Property into a separate account under the control of the Receiver.
 - d) Disburse funds received by the Receiver on account of the Property as follows, in the following order of priority:
 - i. First, to reimburse the Receiver for its actual out-of-pocket expenses incurred in its capacity as Receiver, including without limitation its reasonable legal fees, its allocable overhead and labor costs, its cost of incorporation, its costs of negotiation of the terms of this receivership and costs of liability insurance (“Receiver Out-Of-Pocket Expenses”);
 - ii. Then, to make repairs to conditions which violate the State Sanitary, fire safety, electrical and building codes or ordinances;
 - iii. Next, to make payments, to the extent possible, towards any unpaid taxes, assessments, penalties or interest;
 - iv. Finally, to make payments, to the extent possible, to any payments due any mortgagee or lien holder of record
 - e) The Receiver shall file with the Court and serve upon all parties within fourteen (14) days of the effective date of this Receivership, a detailed line-item budget for the necessary repairs, which shall be based upon the Receiver’s full inspection of the Property.
 - f) The Receiver shall file with the Court and serve upon all parties within sixty (60) days of the effective date of this Receivership, a report setting forth all expenses

- and disbursements of the Receivership, with attached receipts, and an accounting of all funds received by the Receiver during the period covered by such report.
- g) After the filing of the initial report described in subsection (f), the Receiver shall file with the Court and serve upon all parties every two (2) months thereafter, an updated report setting forth all expenses and disbursements of the Receivership, with attached receipts, and an accounting of all such receipts. If the Property becomes occupied in the future, the report shall also include a list of all tenants residing at the Property, together with a list of current rental amounts and the status rental payments to date. The Receiver shall serve upon the Respondents, in a timely manner and to an address provided by the Respondents appearing in Court, copies of all reports, notices and other documents which are required of the Receiver under the terms of this Order. If the Respondents fail to appear or otherwise fail to provide an address for service, then the Receiver shall be obliged only to file that report with the Court.
 - h) The Receiver may rent the vacant Property when it is in current compliance with the State Sanitary Code. Policies regarding the first month's rent, last month's rent and security deposit for new tenancies shall be left to the discretion of the Receiver.
 - i) Should the Property become occupied, the Receiver may collect and receive all rental revenues due from tenants or occupants of the Property as an agent of the Court on or after the first rental period following the effective date of this Order. It shall be the responsibility of the Receiver under this paragraph to account for all receipts according to the standards set forth in subparagraph 6(f).
7. **Bond:** The Receiver shall not be required to furnish bond or surety, but shall provide proof of suitable liability insurance to be approved by the Court.
8. **Claims against Receiver:** Except as provided in Paragraph 9 of this Order, any residents or occupants of the Property, whether past or future, may not seek money damages from any funds administered by the Receiver. All residents or occupants of the Property retain any and all rights under statutes or common law to proceed against the Respondents, or any other appropriate party, other than the Receiver, and/or their agents or employees for money or other damages for claims arising out of the occupancy of the Property, including any damages that may be incurred or claims that may arise while the Property is under the receivership, to the extent provided by law.
9. **Liability and Agency:** As set forth in G.L. c. 111 § 127I, liability of the Receiver shall be limited to the assets and income of the receivership, including proceeds of insurance purchased by the Receiver in capacity as receiver. The Receiver shall in no instance be personally liable for actions or inactions within the scope of the Receiver's capacity as receiver. No suit shall be brought against the Receiver except as approved by the Court.
10. **Priority Liens and Mortgages:** As set forth in G.L. c. 111 § 127I, the Receiver shall have a lien, effective when recorded in the registry for which the Property is located,

with priority over all other liens or mortgages except municipal liens, to secure payment of any costs incurred and repayment of any loans for repairs, operation, maintenance or management of the Property. The Receiver's lien may be assigned to lenders for the purpose of securing loans for repair, operation, maintenance or management of the Property.

11. **Notice to Creditors:** The Petitioners shall send a copy of this Order to all mortgages and lien holders of record, if any, a list of which is to be provided to the Petitioners by the Respondents.
12. **Sale of the Property:** The Property shall not be sold, encumbered or placed under contract for sale without the prior leave of the Court.
13. **Duties of the Respondents:** Within 48 hours of the signing of this Order, the Respondents shall transfer to the Receiver the right to obtain all keys to the apartments and common areas of the premises and its rent roll for all apartments at the Property. The Respondents shall provide the Receiver with reasonable advance notice prior to entering any part of the Property. Within seven (7) days of the signing of this Order, the Respondents shall provide to the Receiver copies of all documents necessary to manage and maintain the property and shall provide the following information:
 - a) Mortgages and Liens: the name and address of all mortgages and lien holders of record; the amount of the liens or mortgages.
 - b) Insurance: the name, address, and telephone number of all insurance companies and their agents providing insurance coverage for the Property; the amount and type of coverage; the amount and due dates of premiums.
 - c) Utilities: the amount of the most recent water, sewer, gas and electric bills; the amount of any outstanding balance; and the dates and amounts of the last payment.
 - d) Real Estate Tax: the amount of the most recent real estate tax bill; the amount of any outstanding balance; the date and amount of the last payment.
 - e) Contracts: copies of all warranties for prior work done, service contracts for ongoing maintenance (e.g., for extermination) and all contracts or bids for repairs.
 - f) Other: all information relevant to any outstanding expenses relating to the Property.
14. **Further Court Order:** The Petitioners, the Respondents, the Receiver and other interested parties shall have the right to request from the Court, by motion and with advance notice, further orders consistent with G.L. c. 111 § 127I, common law, or the terms of this Order. In the event of emergencies, service of motions to parties on this action by facsimile transmission shall be acceptable.
15. **Review by Court:** The foregoing Order shall remain in effect for two hundred and forty (240) days. The Receiver and all other affected parties shall report on the Receiver's progress to the Court on July 2, 2013 at 2 o'clock p.m.
16. **Effective Date:** This Receivership shall take effect on _____.

So entered on this ____ day of _____, 2013.

Hon. Timothy F. Sullivan
Justice, Worcester Housing Court

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

DISTRICT COURTS DEPARTMENT
CHELSEA DIVISION
C.A. NO.

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS and
the CITY OF REVERE

Petitioners,

v.

[REDACTED], as owner of the
property located at [REDACTED],
Revere, MA
and

[REDACTED]
[REDACTED]
as mortgagee or party with an interest in the
property located at [REDACTED],
Revere, MA
and

[REDACTED]
[REDACTED]
[REDACTED], and
[REDACTED], as mortgagees or
parties with an interest in the property located at
[REDACTED], Revere, MA
and

[REDACTED] as
mortgagee or party with an interest in the property
located at [REDACTED], Revere, MA.
Respondent.

RECEIVER'S INITIAL REPORT

The Court appointed Receiver, [REDACTED] ("Receiver"), for the
property known and numbered as [REDACTED], Revere, Massachusetts, and
discussed in detail below (the "Property"), hereby submits its initial report in accordance the

Court's appointment order. Specifically, the Receiver is writing to provide the current status as to: (1) the condition of the Property; and (2) the Receiver's activities and general plan for moving forward.

PROCEDURAL HISTORY

The Petitioners filed a Petition for the Enforcement of the State Sanitary Code and for the appointment of the Receiver on or about August 8, 2013. The Court conducted a hearing on August 27, 2013 on the Petitioners' Application for Appointment of a Receiver and ordered such appointment of the same day. The Receiver is also filing proof of liability insurance herewith

I. Condition of the Property

The Property is a deteriorated, multi-family residential building situated at the address [REDACTED], Revere, Massachusetts. The premises upon which the building sits consists of two separately deeded and assessed properties, both owned by the Respondent. Please see deeds attached hereto as Exhibits A and B.

The Receiver retained the services of an environmental assessment firm, Action Environmental Emergency Services (AEES), to conduct a review of the property. According to AEES's report, the property is significantly deteriorated and dangerous due to large amounts of rotting food and animal and insect infestation. Please see AEES's assessment report attached hereto as Exhibit C. These issues are not only affecting the Property but also the health and safety of the surrounding properties and residents. *See id.* Beyond the environmental assessment discussed above, the Receiver also retained David M. Reggiani of Emerald View Associates Inc, to conduct an assessment as the repairs necessary to restore the property to compliance the State Sanitary Code. Mr. Reggiani has identify numerous, costly repairs that will be needed to return this property to a habitable condition.

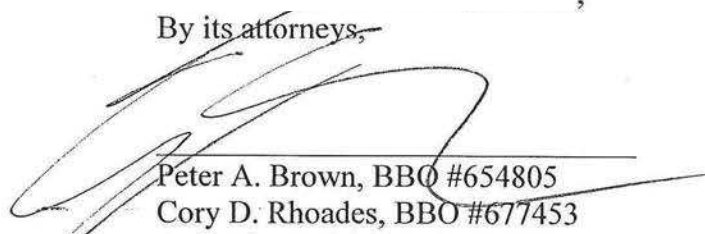
II. The Receiver's Activities and Plan

Following the approval of the Receivership, the Receiver began diligently working to secure and assess the condition of the property. The Receiver has boarded up the property, secured access, removed containers of gasoline found inside the building and scheduled treatment of the Property's outside areas for vermin.

Unfortunately, as to further restoration efforts, the totality of the necessary clean up and repairs may make this receivership economically unfeasible. As a result, the Receiver is undertaking additional investigations to identify the extent of these problems and how they may impact the receivership. The conditions are potentially bad enough that the Property may need to be demolished. The Receiver will provide a more detailed report to the Court regarding these concerns and a thorough plan for moving forward prior to the next status hearing.

Respectfully submitted,
Court Appointed Receiver,

By its attorneys,



Peter A. Brown, BBO #654805
Cory D. Rhoades, BBO #677453
Aviv Shamash, BBO #685530
D'Ambrosio Brown LLP
185 Devonshire Street, 10th Floor
Boston, MA 02110
Tel.: (617) 720-5657
Fax: (617) 723-4697
pbrown@dambrosiobrown.com
crhoades@dambrosiobrown.com
ashamash@dambrosiobrown.com

DATED: September 30, 2013

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

HOUSING COURT DEPT.
NORTHEAST DIVISION
CIVIL ACTION No.

ATTORNEY GENERAL for the)
Commonwealth of Massachusetts;)
CITY OF METHUEN,)
Plaintiff,)
)
v.)
)
██████████, et. al.)
Defendants)
)

RECEIVER'S MOTION FOR
APPROVAL OF DEVELOPMENT SCOPE & BUDGET

Now comes the court appointed Receiver and hereby moves this court to approve Receiver's proposed Development Scope and Budget as detailed herein. As grounds therefore, Receiver states as follows:

1. Once a court has taken the step of creating a receivership to pursue an objective, that court must have and must utilize a continuing authority to issue supplementary orders designed to assist in various detailed aspects of the operation of the receivership. See Spence v. Reeder, 382 Mass. 398, 416 N.E.2d 914 (1981).

2. The subject receivership property is a substantially distressed, vacant, single family property located at ██████████, Methuen, Massachusetts. The property contains approximately 1,900 square feet, and will require a substantial renovation to bring it back to habitable condition.

3. Receiver has had an extensive renovation analysis and budget prepared by an independent, HUD-certified renovation construction expert, John R. Bovill. Attached at Exhibit 1 please find a copy of his CV and some detailed information about J.R. Bovill Inspections.

4. Attached at Exhibit 2 please find a certified¹ Rehab Work Write Up, establishing a cost budget for the hard construction costs of this renovation.

A. Proposed Budget - Summary

Hard Construction Costs:	90,381.00
Soft Construction Costs	49,188.00
	<hr/>
Total Development Budget:	<u>139,569.00</u>

(see next page for a detailed itemization of the budget)

¹ See last page of Work Write Up Report: "Consultant's Identity-of-Interest Certification: I hereby certify that I have carefully inspected this property for compliance with the general acceptability requirements (including health and safety) in Handbook 4905.1. I have required as necessary and reviewed the architectural exhibits, including any applicable engineering and termite reports, and the estimated rehabilitation cost and they are acceptable for the rehabilitation of this property. I have no personal interest, present or prospective, in the property, applicant, or proceeds of the mortgage. I also certify that I have no identity-of-interest or conflict-of-interest with the borrower, seller, lender, realtor, appraiser, plan reviewer, contractor or subcontractor. To the best of my knowledge, I have reported all items requiring correction and that the rehabilitation proposal now meets all HUD requirements for 203(k) Rehabilitation Mortgage Insurance." (emphasis added).

/s/ John R. Blovill, HUD Approved 203K Consultant/Plan Reviewer, ID# P0093

B. Proposed Budget - Itemized

Hard Construction Costs:

Methuen		
	<u>Budget Items</u>	<u>Description</u>
1) Masonry	770	-Repoint & Reflash Chimney
2) Siding	1,000	-Replace Damaged Siding; Replace Damaged Trim
3) Gutters	1,800	-Install Aluminum Gutters & Downspouts
4) Roof	16,930	-Strip existing roof, Replace damage roof sheathing; Insall new roof shingles, venting & flashing
5) Shutters	0	
6) Exteriors	2,400	-Repairs to front and rear porches
7) Walks	0	
8) Driveways	0	
9) Paint (Exterior)	1,750	-Scrape, prime and paint exterior where needed. All work in compliance with New Lead laws.
10) Caulking	0	
11) Fencing	0	
12) Grading	351	-trim all overgrown shrubs etc.
13) Windows	5,550	-Install new windows at basement, rear porch and living area.
14) Weather-Stripping	0	
15) Doors (Exterior)	1,300	-Install new vinyl insulated door.
16) Doors (Interior)	1,170	-Replace (6) interior Doors
17) Partition Walls	0	
18) Plaster/Drywall	3,200	-Install 1/2" drywall (taped, sanded and primed) at all water damaged areas
19) Decorating	2,650	-Paint Interior Walls, Ceiling & Trim
20) Wood Trim	900	-Replace damaged trim & mouldings
21) Stairs	0	
22) Closets	0	
23) Wood Floors	3,200	-Refinish 400 SF of wood floors (water damage)
24) Finish Floors	2,430	-Install (75 SY) carpet and pad
25) Ceramic Tile	0	
26) Bath Accessories	300	-Install new medicine cabinets
27) Plumbing	8,400	-Replace all damaged plumbing (freeze up). Install (3) piece bath fixtures.
28) Electrical	4,500	-new wiring, install GFCIs, smokes
29) Heating	7,300	-Install new FHW gas fired heating system complete.
30) Insulation	5,000	-Insulate basement, attic and all walls that have been opened and or water damaged.
31) Cabinetry	11,180	-Install new kitchen cabinets and countertops. Install new bath vanities.
32) Appliances	2,000	-Install new range, hood, dishwasher & fridge.
33) Basements	0	
34) Clean-Up	5,600	-Dispose all water damaged items; dumpster rental.
35) Misc	700	-Drawings for new rear porch
	<u>90,381</u>	

Soft Construction Costs - Itemized

36) Work Write Up/Inspect:	1,000
37) Permit Fees:	2,500
38) Title and Recordings	1,500
39) Utilities	2,000
40) Insurance	3,000
41) Financing Debt Service	9,000
42) Closing Costs	2,500
43) Legal Fees/Receiver	15,000
44) Contingency (10%)	12,688
	<u>49,188</u>

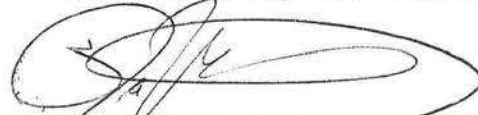
Total Budget 139,569

WHEREFORE, the Receiver respectfully requests this Court to:

1. Approve Receiver's Development Scope & Budget as proposed above (see proposed order);
2. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

Receiver, By its attorney,

A handwritten signature in black ink, appearing to read "D. McAuley, Jr.", enclosed within a large, loopy oval shape.

Daniel G. McAuley, Jr.

Receiver

BBO#: 564704

400 TradeCenter, Suite 5900

Woburn, MA 01801

(781) 569-5080

(781) 287-1172 Fax

Email: dqmesq@comcast.net

Dated: January 9, 2014

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

THE TRIAL COURT
HOUSING COURT DEPARTMENT
HAMPDEN DIVISION
DOCKET. NO.

CAROL REED and
CITY OF SPRINGFIELD
DEPARTMENT OF CODE ENFORCEMENT
HOUSING DIVISION
Petitioner

vs.

[REDACTED] and [REDACTED]
Respondents

NOTICE TO
POTENTIAL
BUYERS

By order of the Court, the first mortgagee NAME OF BANK has been instructed to distribute the notice to potential purchasers of [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED] and [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED] an [REDACTED], Springfield, Massachusetts.

As a result of defective conditions at these buildings and the lack of any available management, the Court ordered on June 30, 2008 that these buildings be placed into receivership. This mean that since that date the buildings have been in the custody of the Court, managed by Virgilio Property Management, Inc, acting as an agent of the court.

At any foreclosure sale held on any of these properties, the sale will transfer title to the properties. However, the Receiver will continue to remain in possession of the properties until further order of this Court

Specifically, to dissolve the receivership, any bidder, prospective owner, or new owner of the building must demonstrate the following:

1. The bidder/owner is fully informed of the condition of the premises, including. apartments and Common areas, lead paint, and building systems;
2. The bidder/owner has the financial ability following the sale, to repair promptly any conditions in violation of the standards of fitness for human habitation established under the state sanitary code, or other applicable laws ordinances, by-laws, rules or regulations affecting the heath safety or well-being of the occupants;

3. The bidder/owner has a plan for implementing such repairs including cost estimates for major repairs, financing and priorities for rehabilitation;
4. The bidder/owner has staff with the skills and experience to implement the plan referred to in section 3, above;
5. The repair of the premises as proposed by the bidder/owner will not result in the displacement of the tenants and occupants.

Any bidder, potential owner or new owner may appear before the Court to obtain a ruling or clarification of these issues by scheduling a hearing in this matter, with notice to the parties of record including the attorney for the Receiver, the petitioner(s), the respondent, and Baybank

At such time, the bidder/owner is requested to complete a financial statement, available from the Clerk's office, and to provide a copy of such statement to the parties of record in this matter, with advance warning notice of the time and date of such a hearing. The Court hereby orders that such financial statement received by other parties to this action shall be kept confidential and limited to use in these proceedings and may not be disclosed by any party for any other purpose without leave of Court.

Pursuant to G.L. c. 111, sec. 127I, sixth paragraph, any prospective bidder is hereby informed that any decision continuing the receivership and denying a successful bidder possession of the premises shall not relieve such bidder, after becoming an owner from civil or criminal liability or any duty imposed by law, nor shall it suspend any obligation of such owner to pay for taxes, operating or maintenance expenses, or for repair of the premises.


Dated:

NAME OF JUDGE
First Justice

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

THE TRIAL COURT
HOUSING COURT DEPARTMENT
HAMPDEN DIVISION
DOCKET. NO.

<hr/>)	
CAROL REED and)	
CITY OF SPRINGFIELD)	
DEPARTMENT OF CODE ENFORCEMENT)	
HOUSING DIVISION)	MOTION REGARDING
Petitioner)	FORECLOSURE NOTICE
)	
vs.)	
)	
)	
Respondents)	
<hr/>)	

The petitioner, Carol Reed, moves that the Court order the holder of the first mortgage, NAME OF BANK ("the Bank"), to issue the attached Notice to Potential Buyers before and during any auction of any of the subject properties. As grounds for this Motion, petitioner states that the parties and the Bank agree that an auction of the properties would not affect the *in rem* Receivership proceeding, and that the proposed Notice would make potential buyers aware of the proceeding and would ensure that the properties, which are in the Court's jurisdiction and control through the receivership, remain habitable and in compliance with law in the event of an auction.

Dated: _____

TERMINATION OF RECEIVERSHIP

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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX SS

DISTRICT COURT DPT.
SOMERVILLE DIVISION
C.A NO.

ATTORNEY GENERAL FOR THE
COMMONWEALTH OF MASSACHUSETTS
and THE CITY OF MEDFORD,

Petitioners

v.

_____ as owner of the
Property located at _____,
Medford, Massachusetts

MOTION TO APPROVE FINAL ACCOUNT

NOW COMES City Light Homes, LLC, the Receiver in this matter and hereby requests that this Honorable Court approve its final account, attached hereto as Exhibit A, for the renovation/rehabilitation of the building located at _____, Medford, Massachusetts in the amount of \$376,611.01. In support hereof the Receiver submits its final bills which contain all expenses, disbursements, receipts and accountings. The original approved budget was \$388,493.00.

WHEREFORE, the Receiver requests that this Honorable Court approve the final account in the amount of \$376,611.01.

City Light Homes, LLC
Receiver
By its attorney



James M. Cote
Cote Law Offices
246 Andover Street
Peabody, MA 01960
(978) 278-5850
BBO No. 557178

FINAL ACCOUNT

Amount Received Per Loan	\$320,000.00
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Amounts Paid

Central Contractor	\$276,721.60
Northeast Sanitation	\$351.76
Frank's Tree Work	\$1800.00
MPIUA/USLI Insurance	\$1225.25
Argus	\$140.64
Lowes (Appliances)	\$2977.76
Cote Law Offices (to date)	\$2050.00
Flannery's Handymen	\$1650.00
Hennessey & Macinnis (Full title)	\$215.00
Salem Five (bank fees)	\$74.00
Bank Carrying Costs (per approved budget)	\$15,000.00
Citylight OH&P (per approved budget)	\$47,155.00
Real Estate/Auctioneer Fee (per approved budget)	\$24,000.00
Recording Fees (Registry of Deeds)	\$300.00
Legal Fees (final)	\$2950.00

TOTAL AMOUNT EXPENDED	\$376,611.01
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Excess Loan Funds Returned to Lender

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

SUFFOLK, ss.

**THE TRIAL COURT
HOUSING COURT DEPARTMENT
CITY OF BOSTON DIVISION
CIVIL ACTION. NO.**

**ATTORNEY GENERAL FOR THE
COMMONWEALTH OF MASSACHUSETTS**
Petitioner

v.

Respondent

ORDER

After hearing on September 5, 2008, regarding the Receivership on the property located at [REDACTED], Dorchester, MA, the Court finds an order as follows:

1. _____, Receiver of the above mentioned property, reported to the Court that he had repaired the property to bring it into compliance with Sanitary Code.
2. The Receiver reported the expenses incurred for the repair, operation, maintenance, and management of the property as follows:

Demolition and Clean Up	\$83,000.00
Repair Framing	\$1,000.00
Plumbing and Heating	\$17,500.00
Electric Wiring	\$8,600.00
Replacement Windows	\$6,000.00
Sheetrock and Plaster	\$11,000.00
New Doors	\$4,500.00
New Kitchen Cabinets	\$3,600.00
New Stoves	\$917.00
Tile Bathrooms	\$3,000.00
Paint Apartments	\$3,800.00
Repair Siding	\$3,000.00
Sanding Floors	\$1,800.00
Carpeting	\$1,100.00

Finishing	\$1,100.00
Finishing Carpeting	<u>\$22,883.00</u>
Total Repairs	\$97,000.00
Real Estate Taxes	\$17,000.00
Water and Sewer Bills	\$4,000.00
Building Permit	\$607.00
Insurance by Receiver	\$216.00
Insurance by Contractor	\$476.00
Receivership Fee	<u>\$10,000.00</u>
Total Expenses	\$129,299.00

3. The Court accepts the Receiver's report and finds that the Receiver has a lien for the above mentioned expenses as described under G.L. c. 111, § 127I.
4. The Court orders that the Receiver may foreclose on his lien.
5. The disbursement of funds recovered from the foreclosure shall occur in the following order of priority:
 - a. All municipal liens as required under G.L. c. 111, § 127I.
 - b. The cost of foreclosure on the Receiver's lien
 - c. The cost of the Receivership in the order itemized above.
 - d. No creditors having filed an appearance in this action, the Receiver shall disburse any excess fund from the foreclosure to the Respondent.
6. After foreclosure on the Receiver's lien the Receiver shall file a final report with the Court
7. If the Court accepts the final report, the parties shall stipulate to dissolve the Receivership.

Entered this date of

Signatory
Chief Justice

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

SUFFOLK, ss.

**THE TRIAL COURT
HOUSING COURT DEPARTMENT
CITY OF BOSTON DIVISION
CIVIL ACTION. NO.**

**ATTORNEY GENERAL FOR THE
COMMONWEALTH OF MASSACHUSETTS**
Petitioner

vs.

Respondent

RECEIVER'S FINAL REPORT

**MOTION FOR APPROVAL OF SALE
and
MOTION TO DISCHARGE THE RECEIVER**

Now comes _____, Receiver of the property located at _____, Dorchester, Massachusetts and asks the Court to approve the sale by public auction held on May 28, 2009.

1. _____, Receiver of the above mentioned property, previously reported to the Court that he had repaired the property to bring it into compliance with the Sanitary Code.
2. The Receiver reports the expenses incurred for the repair, operation, maintenance, and management of the property as follows:

Demolition and Clean Up	\$83,000.00
Repair Framing	\$1,000.00
Plumbing and Heating	\$17,500.00
Electric Wiring	\$8,600.00
Replacement Windows	\$6,000.00
Sheetrock and Plaster	\$11,000.00
New Doors	\$4,500.00
New Kitchen Cabinets	\$3,600.00
New Stoves	\$917.00

Tile Bathrooms	\$3,000.00
Paint Apartments	\$3,800.00
Repair Siding	\$3,000.00
Sanding Floors	\$1,800.00
Carpeting	\$1,100.00
Finishing	\$1,100.00
Finishing Carpeting	<u>\$22,883.00</u>

Total Repairs	\$97,000.00
Interest to Contractor	\$7,014.36
Real Estate Taxes	\$5,169.77
Water and Sewer Bills	\$5,934.00
Building Permit	\$607.00
Insurance by Receiver	\$216.00
Insurance by Contractor	\$476.00
Receivership Fee	<u>\$10,000.00</u>
Foreclosure Expenses and Legal Fess	\$3,683.98
Total Expenses	\$130,101.11

3. On November 24, 2008 the Court accepted the Receivers report. The current report reflects changes since September 5, 2008 when the costs of the receivership were \$129,299.00.
4. The Court Ordered that the Receivers Expenses are a priority lien over all other liens other then municipal liens pursuant to M.G.L. chapter 111, Section 127I.
5. The Court Ordered that the Receiver may foreclose the receiver's lien and disburse any funds recovered from the foreclosure, first, paying the municipal liens as required by the statute, second, paying the costs of the foreclosure of the lien, and then disbursing the balance in accordance with the report tendered to the Court.
6. The Court ordered that because no creditors filed an appeared to the Respondent.
7. The Court ordered that after the foreclosure of the Receiver's Lien the Petitioner is to file a final report with the Court and a Motion to dissolve the Receivership.
8. The receiver's lien was foreclosed by public auction on May 28, 2009.
9. The auction was conducted by _____, Auctioneer.
10. The bidding began at \$25,000.00 and the high bidder was _____, Trustee with a high bid of \$136,000.00. A copy of the auctioneer's report is attached hereto as Exhibit "A".
11. The receiver has received rent in the amount of \$8,342.00 since November 24, 2007.
12. The rent received has been paid to the City of Boston to reduce the real estate tax obligations.

13. The current balance due on the real estate taxes is \$5,169.77 and interest continues to accrue at about \$0.89 per day.
14. Prior to the Receiver's sale a legal notice was published in the Boston Herald on May 2, 9, and 16. A copy of the legal ad and the bill for the ad is attached hereto as Exhibit "B". In addition a display ad was placed in the Auction section of the Boston Herald on May 24, 2009. A copy of the display ad and the bill for the ad is attached hereto as Exhibit "C"
15. In addition to the legal and display ads the receiver caused notices to be sent certified mail to all parties with any interest in the property.
16. The receiver had no funds to effectuate the repairs in this case.
17. The receiver found a contractor who would make the repairs and wait for his payment.
18. The contractor finished all his work and was due to be paid by the time of the hearing on September 5, 2008. The contractor had obtained delead certificates and a certificate of occupancy prior to the September 5, 2008 hearing.
19. The contractor should be entitled to interest at the statutory judgment rate of 12% from September 5, 2008 through May 28, 2009. The Contractor seeks payment of \$7,014.36 in interest to compensate him for having to wait for payment after having completed the work.
20. The receiver asks that the court authorize payment of to (Attorney) in accordance with the attached invoice for legal fees, advertising and auction expenses in the amount of \$3,683.98 which consists of \$2,018.75 in legal fees and \$1,665.23 in expenses for advertising and auctioneer's fees all as shown in Exhibit "D" attached hereto.
21. The rental income has been used to reduce the taxes to such an extent that despite the interest to the contractor and the legal fees and expenses due to (Attorney) the total cost of the receivership presented in the accounting presented to the court on September 5, 2008 has only increased \$1,493.14.
22. If the court approves the sale the former owner, [REDACTED], will net \$5,207.86.
23. The receiver having substantially completed his work requests that he be discharged as receiver.

WHEREFORE, the receiver asks that the Court

- a. Approve the sale of the property at 323 -325 Queen Street to _____, Trustee of the
[REDACTED] Realty Trust.
- b. Authorize the Receiver to disburse \$5,207.86 to [REDACTED].
- c. Accept and approve the final accounting provided by the receiver in this case.
- d. Discharge the receiver.

_____,
Receiver
by his attorney

Attorney for the Receiver
BBO
(Attorney)
1000 Dorchester Avenue
Boston, MA 02125

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

DISTRICT COURT DEPARTMENT
SOMERVILLE DIVISION

No. [REDACTED]

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS
and

THE CITY OF MEDFORD

Petitioners

v.

[REDACTED] as owners of record
of the property located at [REDACTED] t,
Medford, Massachusetts

et als.

Respondents

ORDER ON
RECEIVER'S MOTION FOR APPROVAL OF RECEIVER'S FEES AND EXPENSES

After notice and hearing, and pursuant to G.L. c. 111 sec. 127I and the equitable power of this Court, the Receiver's Motion For Approval Of Receiver's Fees And Expenses is ALLOWED in the sum of \$6,610.00 as further set forth in such motion.

SO ORDERED.

January , 2013

(_____ , J.)

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

DISTRICT COURT DEPARTMENT
SOMERVILLE DIVISION
NO. [REDACTED]

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS and
THE CITY OF MEDFORD

Petitioners,

v.

[REDACTED],

et als.

Respondents.

MOTION TO DISCHARGE RECEIVER

Pursuant to G.L. c. 111 sec. 127I, the Receiver appointed herein moves that he be discharged. In support of this motion, the Receiver states that the illegal conditions at the property at [REDACTED], Medford, MA that gave rise to this Receivership have been repaired and such repairs have been approved by the City of Medford, and, that the costs and expenses of the Receivership, as approved by this Court, have been paid.

WHEREFORE, the Receiver respectfully requests that the Receiver be discharged.

Receiver
By his attorney,


James J. Cotter, III BBO 101620
Post Office Box 270
No. Quincy, MA 02171
617 899 0549
jjcotter3rd@verizon.net

Dated: September //, 2013

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

DISTRICT COURTS DEPARTMENT
SOMERVILLE DIVISION

C.A. NO. [REDACTED]

ATTORNEY GENERAL for the
COMMONWEALTH OF MASSACHUSETTS
and THE CITY OF MEDFORD

Petitioners,

v.

[REDACTED]
[REDACTED] as owner
of the property located at [REDACTED],
Medford, Massachusetts

and

[REDACTED],
as mortgagee or party with an interest in the
property located at [REDACTED],
Medford, Massachusetts

Respondents.

STIPULATION OF DISMISSAL

Pursuant to Mass. R. Civ. P. 41(a)(1)(ii), the parties stipulate to dismiss the above-captioned action. As grounds, the petitioners, Attorney General Martha Coakley and the City of Medford ("Petitioners"), state that on November 14, 2013, Respondent [REDACTED] [REDACTED] obtained a Certificate of Occupancy from the City of Medford's Building Department and that the illegal conditions at the property which gave rise to this action have been repaired. Petitioners further state that the Property is no longer a public safety concern.

For the above reasons, the parties respectfully request that this Court dismiss the action with prejudice and without costs.

Respectfully Submitted,

MARTHA COAKLEY
ATTORNEY GENERAL

By her Attorney,

Greg Dekermenjian BBO #669705
Assistant Attorney General
One Ashburton Place
Boston, MA 02108

Date: December _____, 2013

_____. as Mortgage
Servicer for

By its Attorneys

Date: December _____, 2013

CITY OF MEDFORD
By its Attorney of Record

Mark E. Rumley, BBO# 433900
City Solicitor
Medford City Hall
85 George P. Hassett Drive
Medford, MA 02166
(781) 393-2470

Date: December _____, 2013

PRELIMINARY INJUNCTION AND CIVIL CONTEMPT PROCEEDINGS

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**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

SUFFOLK, ss.

**HOUSING COURT DEPARTMENT
CITY OF BOSTON DIVISION
CIVIL ACTION. NO.**

**ATTORNEY GENERAL FOR THE
COMMONWEALTH OF MASSACHUSETTS**

Petitioner

vs.

[REDACTED]

Respondent

PETITIONERS' OPPOSITION TO DEFENDANT'S EMERGENCY
MOTION TO DISSOLVE RECEIVERSHIP AND
CROSS MOTION FOR INJUNCTIVE RELIEF

The plaintiffs, Attorney General for the Commonwealth of Massachusetts, submit this opposition to plaintiffs' emergency motion to dissolve the receivership and cross motion for an injunction directing Respondent to vacate the premises, turn possession over to the receiver, and comply with all prior orders of this Court. As grounds for their opposition and cross motion, the plaintiffs state:

1. On June 30, 2007, the Court entered an order granting the Petitioners' motion to extend and modify the receivership of Jack Young over property located at [REDACTED], Dorchester. A copy of that order is attached hereto as exhibit 1. The receiver was appointed by the Court pursuant to M.G.L. c. 111, § 127I which states, in relevant part, that "[u]pon appointment, the receiver shall promptly repair the property and maintain it in a safe and healthful condition." M.G.L. c. 111, §127I. The powers and duties of Mr. Young as receiver were further delineated by the Court's June 30, 2000 Order, in particular paragraph 6.
2. The Respondent has blatantly violated the Court's June 30, 2007 order by retaining full and exclusive possession of the premises and by his attempts to make repairs since entry of the June 30, 2007 order which fall within the receiver's express authority under the statute and the Court's June 30, 2007 Order. The Order requires that Respondent turn-over possession of the premises to the receiver, so the receiver can fulfill his statutory obligation

to"....promptly repair the property and maintain it in a safe and healthful condition." M.G.L. c.111, § 127I. The June 30, 2007 Order expressly states:

"Within 48 hours of the signing of this Order, the Respondent shall transfer to the Receiver the right to obtain all keys to the apartments and common areas of the premises...The Respondent shall provide the Receiver with reasonable advance notice prior to entering any part of the Property."

See June 30, 2000 Order, section 15. Rather than comply with this statute and Order, the Respondent took it upon himself to keep possession of the property, have his own workers on site, and refuse to grant access to the receiver. Young Aff." sections 5, 9, and 11.

3. Upon receipt of the June 30, 2007 Order, the receiver made a good faith attempt to begin the emergency repairs, secure the property from trespassers, and to make arrangements to make the repairs expected by the Court under the receivership order. See Affidavit of Jack Young, Esq., sections 9, 11. The Respondent had specific obligations under the Order, which included providing the receiver with the documentation necessary to secure the receiver's financing, contractor and other essential elements necessary to the receiver to complete his duties. See June 30, 2007 Order, section 15; Young Aff., section 6, 7. The Respondent has failed and refused to provide the documentation as required, hindering the receiver's ability to perform his duties. Young Aff., section 8. Needless to say, the Respondent failed to provide the 48 hour notice to the receiver of his intent to enter the premises as required by the June 30th Order at section 15.
4. Not only has Respondent violated the Court's June 30, 2007 order, his conduct on the premises has done more harm to an already bad situation. See Affidavit of Juan Ferriol dated September 7, 2007. He has completely gutted the interior of the property, failing to shore-up support beams and removing bearing walls on the first and second floors of the building. Ferrol Aff., section 9. He poured a concrete foundation, without submitting any of the structural plans required by the City to verify the quality and safety of the finished structure. Ferrol Aff., section 10. The Respondent failed to submit any exploratory permit, or engineer's report certifying the structural integrity of the building. Ferrol Aff., section 1. In sum, he has left the building in an unsafe condition, which poses a serious risk to the safety and health of not only the neighbors, but to his own workmen. Ferriol Aff., section 12, 15.
5. The Respondent has no excuse for violating the Court's explicit order by continuing to work on the property. Respondent has been involved in these proceedings for over a year. He is represented by counsel in these proceedings. At the June 28, 2007 hearing, the Respondent's counsel represented to the Court that the Respondent would not oppose the extension and modification of the receivership sought by Petitioners. Respondent's counsel opposed the detailed nature of the order, claiming it was excessive and unnecessary. The Petitioners sought the detail, so each party understood what their rights and responsibilities are, during the course of the receivership. Now, after entry of the order with the details proposed by the Petitioners, the Respondent has refused to comply with these express

terms. His failure to comply has hindered the court-appointed receiver's ability to perform his lawful duties. Young Aff., sections 6, 7.

6. The Respondent has proven in the past his unwillingness, and confirms by his present actions his inability, to meet his obligations. The fact that the house, after 7 years, remains vacant and is in greater danger of collapse today is proof.
7. Furthermore, the Respondent had ample opportunity prior to entry of the June 30, 2007 order to retain control over the remedial stages of this matter, by complying with the Court's earlier orders. He failed to do so, choosing to ignore those earlier orders. Following a hearing on August 7, 2006, this Court entered an order on September 3, 2006 which allowed the Respondent to retain custody and control of the property, but directing the Respondent to repair the Property in accordance with specific terms set forth in that September 3, 2006 Order. These terms included: (1) restoring the premises to a habitable condition; (2) requiring Respondent to comply with all applicable state building, fire, electrical, sanitary and plumbing codes; (3) obtaining necessary permits to perform this work; (4) repair and restoration which included, without limitation, an exhaustive list of defects presented to the Court by Petitioners, and which had been the subject of number violations cited by the City in the past and which continued, unabated; (5) recertification of the Property for occupancy; (6) work to proceed on a "constant and daily basis and without delay;" (7) appointment of a receiver to oversee the Respondent's work at the Property, in accordance with the terms of the Order; and (8) submission of progress reports by the Respondent to Petitioners as work proceeded. The Respondent failure to comply with that order resulted in the entry of this Court's June 30, 2007 Order, transferring the custody and control of the premises to the receiver to remedy the problems.
8. Even the Respondent's efforts to do the repairs after entry of the June 30, 2007 order, in violation of this Court's June 30, 2007 order, failed. He still refuses to comply with his obligations to obtain the necessary engineering and structural analysis, he performed work in violation of code, and has left the Main Street community in Dorchester with a structurally unsafe and dangerous nuisance with which to contend. Ferriol Aff., section 15, 16; see also July 26, 2006 and June 2, 2007 Affidavits of Juan Ferriol, attached hereto as exhibits 2 and 3, respectively.
9. The Respondent attempts to convince the Court that the cosmetic repairs made to the exterior, and displayed in pictures, proves that he is capable of completing this job successfully. The fact is, there has been no change in the condition of this property since the Court entered the June 30, 2007 Order. Juan Ferriol's Affidavits confirm that the only change by Respondent to the property was making it more dangerous. See Ferriol Affidavit, section 8; Exhibit. 2, sections 14, 15-22; Exhibit.3, sections 8, 12, 16, 21-23. In fact, the roof, and most of the windows and siding displayed in the pictures submitted by Respondent in support of his motion were done prior to June 2, 2007. Exhibit. 3, section 12. It was the remaining hazards which prompted the Petitioners to seek extension and modification of the receivership order in June, 2007. Now, that same hazard has been aggravated by Respondent's blatant violation of this Court's June 30, 2007 order to turn control of the property over to the receiver for lawful repairs. Young Aff., section 13.

10. The Petitioners, therefore, respectfully request that the Court deny Respondent's motion to dissolve the receivership.
11. The Petitioners respectfully request that the Court grant their cross motion for injunctive relief, pursuant to M.G.L. c.111, §127I, c.185C, §3 and the Court's equity powers, directing the Respondent to:
- a. Comply with M.G.L. c.111, § 127I and all prior orders of this Court; and
 - b. Cease any and all construction or other work on the subject property, while this receivership is in effect.

Respectfully submitted,

By the Petitioner

MARTHA COAKLEY
ATTORNEY GENERAL

By Her attorney

Matthew Q. Berge (BBO#)
Assistant Attorney General/Trial Div.
ADDRESS
ADDRESS
TELEPHONE

DATED: _____

I hereby certify that I have this date, _____, served upon [REDACTED] a true copy of the foregoing document, by delivering a copy by hand to his office at [REDACTED], Boston, Massachusetts 02108.

Matthew Q. Berge

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

SUFFOLK, ss.

**HOUSING COURT DEPARTMENT
CITY OF BOSTON DIVISION
CIVIL ACTION. NO.**

**ATTORNEY GENERAL FOR THE
COMMONWEALTH OF MASSACHUSETTS**

Petitioner

vs.

[REDACTED]

Respondent

COMPLAINT FOR CIVIL CONTEMPT, RULE 65.3

I. PARTIES

1. The plaintiff in this case, the Attorney General, is also the plaintiff in *Attorney General v. [REDACTED]*. Chelsea District Court Civil Acton No (), an action seeking enforcement of the State Sanitary Code against defendant [REDACTED] ("[REDACTED]"). The Attorney General filed his petition in the underlying Sanitary Code enforcement proceeding on or about August 15, 20087, and the Court grantee a Preliminary Order against Lewis on August 26, 2008.
2. The defendant in this case, [REDACTED], the owner of property at [REDACTED], Chelsea is al the defendant in Civil Action No.(), described in the preceding paragraph.

II. JURISDICTION

1. The district Court as the court which issued the Preliminary Order at issue, is the appropriate court for hearing this complaint for civil contempt. Mass. R. Civ. P. 65.3(b). The District Court ha equitable jurisdiction in the underlying Sanitary Code enforcement proceeding under G.L. c. 111, §127I and c. 218, §19C.

III. FACTUAL ALLEGATIONS

1. On August 26, 2008, Judge Robert A. Comet sitting in the Chelsea District Court, signed a Preliminary Order in the underlying Civil Action No. (). A true copy of the Order is attached to this complaint (Exhibit A). In relevant part, the Order included the following mandate:

"10. The Respondent [REDACTED] is hereby ordered to complete the repairs to the Property (9 Main Street) listed below with 21 days (i.e., September 16), and to provide a written report to the City of Chelsea Inspectional Services Department and petitioner Attorney General of all repairs completed within two days of the completion of repairs:

- a. Bringing all exterior porches and stairs into complete compliance with the State Sanitary and Building Codes ("the Codes"), making them safe and secure;
- b. Bringing all electrical and plumbing facilities into compliance with the Codes.

All repairs shall be performed by licensed contractors to the extent required by the Building Code, and [REDACTED] shall obtain all necessary permits from the City prior to any repair work.'

"11. [REDACTED] is prohibited from allowing any person, including himself, to reside at the Property until the City has granted him a valid Certificate of Occupancy."

2. The provisions of the Preliminary Order quoted in section 4 of the complaint are mandatory, clear and unequivocal.
3. Between August 26, 2008, the date this court signed the Preliminary Order, and October 8, 2008, the Director of the City of Chelsea Inspectional Services Department and subordinate building inspectors inspected the property at [REDACTED], Chelsea on several occasions and spoke either with [REDACTED] an agent of his named [REDACTED] or both. As of October 8, 2008, [REDACTED] was in knowing, direct violation of this court's Order, section 10, as he had still not: brought "all exterior porches and stairs into complete compliance" with the Codes; brought "all electrical and plumbing facilities into complete compliance" with the Codes; or obtained the necessary permits from the City of Chelsea prior to completing repairs. Affidavit of Stephanie Bode Ward Exhibit B.
4. Between August 26, 2008 and October 8, 2008, [REDACTED] knowingly and directly violated this court's Order, section 11, by residing at the property without having obtained a certificate of occupancy from the City of Chelsea. Affidavit of Stephanie Bode Ward, Exhibit. B.

IV. PRAYER FOR RELIEF

1. In accordance with rule 65.3(c)(5), the Attorney General asks this court's approval for the issuance of a summons and complaint, directing [REDACTED] to appear in court and answer this complaint on October 14, 2008 at 9 AM, a date previously scheduled by the court for a report on the progress of repairs at [REDACTED].
2. The Attorney General asks this court to:
 - a. award him reasonable attorney's fee for the time spent preparing and arguing this contempt complaint (see Lyon v. Bloomfield, 355 Mass. 738, 744 (1969));
 - b. require [REDACTED] to pay into an escrow fund under the control of either the clerk of this court or the City of Chelsea, the sum of \$1000 which sum shall be deposited no later than October 17, 2008 and which shall be released back to [REDACTED] only if he: (i) immediately ceases living at the property (until such time as he may obtain a valid certificate of occupancy), and (ii) obtain the necessary plumbing and electrical permits by October 21, 2008;
 - c. direct that the \$1000 deposited in escrow shall be released to the City of Chelsea in the event that [REDACTED] fails to meet the two conditions described in paragraph b., above, such sum representing reasonable damages suffered by the plaintiff Attorney General and City of Chelsea;
 - d. grant such other relief as appears just and equitable.

Respectfully submitted

MARTHA COAKLEY
ATTORNEY GENERAL

By

Mathew Q. Berge. BBO
Assistant Attorney General
Address
Address
Phone

DATE: _____



OFFICE OF MASSACHUSETTS ATTORNEY GENERAL

One Ashburton Place

Boston, MA 02108

(617) 727-2200

www.mass.gov/ago