

Chapter 7: Interpreting & Using Housing Court Information

Introduction

Before jumping into the ins and outs of finding Housing Court files, of understanding the rulings and court procedures, we will present a few short stories about how community groups have used Housing Court, the Department of Inspectional Services or the Health Department. We have also used this approach to explain receivership and the Department of Health Order to Vacate.

Tips from Organizers

The organizers and researchers we interviewed offered the following suggestions to help understand and interpret court files.

- * Check over lists of the code violations in the file. Do the cited violations check with what you know about the building?
- * Note the year the case was initiated. Check the number of continuances.
- * A continuous file on a building is not kept in Housing Court. Each time a building is in court a new case number is given. Consolidation of cases only happens when a building is in court at the same time for differing sets of violations. A consolidation does not happen automatically. A building can be in more than one court at the same time with different case numbers with different violations. For example, a building could be in court for lead poison paint violations and in another court concerning a malfunctioning boiler. A consolidation only occurs if it is requested by the owner or Corporation Counsel.
- * Check on dismissals. Has the work been done? Ask the tenants. Check the permit files.
When necessary, use a state law which allows people who live within 1200 feet of a

bad building to file a suit. They can petition to intervene in an existing Housing Court violation case or can file a separate case in Chancery Court.

- * Most of the time the inspector writes up violations from exterior observations. Once an inspector gets into a building more violations may be cited and more serious action will be taken on the part of the court.
- * If a building is in really bad shape you can seldom use the court to bring it up to a code. What you can probably do is pressure the owner to sell to a more responsible owner

Vignettes Testifying in Court

A church in Pilsen burned and stood open and vacant for over two years. Although it was gutted the exterior, walls and what was left of the roof remained. Children from the block could get into the church because the owner had done a very sloppy job of boarding it up.

At a block meeting the neighbors complained to each other about the dangers of the building. No one knew when the next court date was scheduled or why it was taking so long for the building to be demolished. They decided to call the local community organization for assistance. An organizer went downtown to the Civic Center with the address and got the case number for the building. After looking through the court file the organizer realized that the case would be up again in two weeks. There had been numerous continuances because the property had been sold and the new owner had only shown up in court once in the last few months. A few of the neighbors went down to the Civic Center for the hearing. The owner showed up with a fancy architectural model and drawings. He planned to turn the church into eleven

condominiums with a suspended glass roof, but needed time to get the financing necessary to do the extravaganza. The neighbors approached the bench and asked to be heard. They complained that the church had been standing vacant for over two years and that it was not boarded up securely. The owner started screaming that if they supervised their children more closely there would not be any problem. At this, the judge suggested the Corporation Counsel * meet with the owner and neighbors in the hall. He called a recess. The Corporation Counsel was very impressed with the model He could not understand why the neighbors would object to this beautiful redevelopment of the church. The neighbors reminded him that this was not the immediate issue. They wanted the building boarded up securely. The Corporation Counsel agreed to recommend to the judge that the building be better secured and moved the next court date up to one month instead of the usual three. The neighbors were satisfied with these measures but realized they were up against the larger issue of the owner's plans to redevelop the church into condominiums. How much longer would the court allow the church to stand vacant before the owner did anything? Would this condominium development change the area by pushing up rents and taxes for the present residents?

An abandoned building issue turned into a gentrification issue which made the neighbors more aware of the development plans for their neighborhood.

Uptown Landlord - An Uptown community organization pursued a court watching strategy to identify problem owners in their community.

One landlord owned a number of buildings which kept showing up in court. but he always seemed to get off. He was also known for contract sales and repossessions.

Organizers talked with the tenants in several of his buildings, who mentioned that some tenants moved around to various buildings owned by the same landlord over the years. They suggested that there was a complex or corporations and family members who operated in conjunction with him.

With a list of names, organizers went to the Defender index in room 601 of the Civic Center, and

found a total of 132 court cases under the name. The cases included some mechanic's liens and a number of multiple cases for specific buildings. In total, these owners were responsible for 30 buildings throughout the city.

The organizers attempted to develop a class action suit of all court complaints. Although a lawyer was available, more money was needed; the issue fizzled.

Sometimes one gets the right information but can't come up with a workable organizing strategy.

Petition to Intervene - In 1978 the city filed a court case against a west side Chicago Housing Authority building for not having self-closing fire devices on the doors. But the building had many more violations. When the tenants learned that it was in court with only one violation they consulted the local legal aid office. The lawyers suggested that the tenants petition to intervene in the case. The tenants decided to do so, and filed a lengthy complaint which added many more violations to the one already cited in the case. With a petition to intervene, the tenants became a plaintiff in the case along with the city, which meant that the case could not be dismissed or resolved without their being fully satisfied.

Intervention is a formal legal procedure and is difficult for tenants to undertake without a lawyer. The Corporation Counsel and the CHA were staunchly opposed to allowing the tenants to intervene in the case. The Corporation Counsel did not like the tenants intervening because it meant that the office was not doing its job. The CHA did not want the tenants to get legal right to determine the maintenance of the building. The judge finally allowed the tenants to intervene in the case as it was, with only the one violation. He would not allow the tenants to add violations to the case until an inspector from the city went out to check the building. A reinspection was ordered, and when the inspector finally did go out, he found 30 additional violations. However, at the next hearing the CHA introduced evidence to show that the fire doors were fixed and the case was dismissed. A new one had to be filed to deal with the additional violations.

In making a decision to petition to intervene, a few things should be considered. The Corporation Counsel will take such an action to mean that you do not think he is doing an adequate job in prosecuting

* The Corporation Counsel is the lawyer for the city in Housing Court. Since the city is the plaintiff in building violation cases the Corporation Counsel is the prosecutor

for the cases. See Chapter 8 for a detailed explanation of Corporation Counsel.

the case. Has your group first conferred with the Corporation Counsel with respect to your complaints and found no cooperation? If so, can your group afford a lawyer and the filing fees?

Unity in Fight Against Slumlord Helps Build Community Organization - The members of a block club of a newly forming community group met about an abandoned building on their block. The organizer did a title search and found the owner's name, and a court date. The block club planned to go to court to attend the next hearing on the building.

A few weeks later another organizer from the same organization was called in by some tenants with no hot water. A title search of this building disclosed the same owner; the organizers reamed of this coincidence at their next staff meeting. Together they went downtown and consulted the Defender's Index, which listed about 12 more court cases involving this particular slumlord. A quick check of these cases found several buildings jointly owned by the original owner and a number of other partners. Checks on their names disclosed more buildings. Eventually a total of 54 separate court cases were attributed to these owners. The community residents responded with visits to court, pickets at a local business owned by the partners, and finally a visit to the home of one of them in the suburbs. Under this pressure the partners began selling their properties and even asked the community group to help them find buyers. The community group continued to attend court on the buildings in worst shape and found owner occupants for several buildings in good shape.

The action of the group helped to eliminate the slumlords, but more important the court research discovered the common issue needed to unite the residents of this neighborhood into a stronger community organization.

The Health Department's Power to Vacate - In July 1982 the Health Department, responding to a complaint from a local community group, used its power to vacate pursuant to Ch 9 & 16 (b) of the Municipal Code and dosed down a medical clinic on North Damen which was allegedly selling drugs illegally. The next day a nearby 17 unit residential building, also considered undesirable by the community group because they thought many of the tenants were users and pushers at the medical clinic, was ordered vacated by the Health Department, which used its powers to evict all the tenants. The building was a health hazard unfit for human occupancy, the Health Department officials said, alleging in newspaper reports that it had 68 violations, and that there were animal feces all over the place. The police enforced the vacate orders, knocking on all the tenant's doors and telling them they had one-half hour to move out. As one tenant said, "It was a grab and go." The city's Department of Human Services arranged for the tenants to go to an emergency housing shelter. When they arrived at the shelter, however, they learned they could only stay one night. Without a permanent address, the tenants on public aid or general assistance temporarily lost their benefits. They decided to band together, and with the help of The Legal Assistance Foundation or Chicago the tenants are contemplating a lawsuit against the Health Department for damages, intending to challenge the Department's broad vacate powers. According to the tenants, the building did have violations, but not as many as claimed by the Health Department. They also said that the descriptions of the unsanitary conditions were likewise exaggerated. The disruption of their lives by the short notice to move will be argued in the case as a violation of their right of due process under the law.

This was a conscious effort by the community group to get rid of the tenants. Another community group in the area denounced the vacate as a scheme to get rid of low-income residents and to gentrify the area. This situation illustrates that tactics and power can be just as easily misused at the community level.

Receivership and Court Research - The story of 1024 W. Cullerton is about how several community organizations used court research and receivership

statutes to rescue a building from a slumlord'; abandonment. It took six years and several different strategies for them to achieve this goal. Thus it is perhaps one of the few examples in which court resources were effectively used to save rather than to demolish a building.

The basic research problem for 1024 W. Cullerton was that its owner had died in Yugoslavia without any heirs. There were two court cases, an incomplete sales contract to another slumlord, delinquent taxes, and a host of violations pending on the building. In this case a battery of lawyers was needed to unscramble the mess. Receivership proved to be a viable strategy but perhaps only for this unique situation.

Tenant Organization - In the Spring of 1976 the tenants of the 1024 Cullerton building (a three flat, contacted an organizer at Pilsen Neighbors Community Council. Two out of the three tenants rented the apartments furnished. The tenants were angry because their refrigerators and toilets did not work, the roof and windows leaked. the floorboards were rotting and one of the space heaters was faultily repaired. With the help of the organizer the tenants drew up a list of repairs that they wanted completed before the next rent payment. When the owner came for his rents the tenants gave him their list. The owner refused to sign the agreement. The following weekend, however, he hired a handyman to do some

Of the repairs and brought another secondhand refrigerator to replace the broken one. The tenants were not satisfied and continued to complain to him about the roof and windows. The owner claimed that he did not have enough money to do all the repairs. He told the tenants if they did not like it they should

As it turned out, the same owner had another building three blocks away. This building was in worse condition. The organizer at PNCC brought the two tenant groups together to discuss what they could do to get the owner to do repairs. They asked the owner to come to a meeting to discuss the condition of both of his buildings. The owner came but said again, "If you don't like it, move out."

The organizer located the owner's address by a tax search. At the next meeting of the tenants he suggested they go out to the suburb and pressure the owner by leafletting his neighbors for support. The tenants agreed and on July 1st a caravan of cars went out to the suburb to visit the owner and talk to his neighbors. The owner was home but refused to talk to the group. Leaflets were passed out to his neighbors. One of the neighbors called the police but after the tenants explained to the police why they were there, there were no arrests or harassments.

After the tenants visited the owner at his home negotiations with him went from bad to worse. The owner refused to talk to the tenants. Soon thereafter the owner stopped coming by the building even to collect rents. The conditions of both buildings continued to deteriorate. The organizer at Pilsen Neighbors tried to keep the tenants unified but one by one they moved out. The owner sold his house in Westmont and moved out of the state.

Squatting - Nevertheless one tenant was left in the 1024 building. During the winter and spring of; 19,, a group of community organizers and residents discussed how to deal with 1024 Cullerton. They rejected the option of receivership at this time because they thought that it did not confront the fundamental problem of private ownership and housing abandonment. Moreover, receivership placed the problem of faultily abandonment on the back of the community without tenants giving them adequate resources to deal with it. 1024 also took on broader meaning because in the same period Pilsen Neighbors had identified 40 abandoned owner buildings in Pilsen and was attempting to develop a strategy to save them.

The group decided that squatting" might prove

an effective way to demonstrate the plight of abandoned buildings and the paucity of workable solutions. Local residents and organizers would take over the building and gradually fix it up with donated materials and labor. At the same time, the building would be a symbol with which to confront the housing court. Unfortunately, the tactic proved too large and the organizing impulse too weak. By the fall of 1977 all tenants had moved out and 1024 Cullerton stood empty.

Sweat Equity - In early 1979 several families living on the same block as the abandoned 1024 Cullerton building asked the Eighteenth Street Development Corporation (ESDC) to investigate possible ways to rehabilitate it.

The ESDC convened a meeting after receiving this request, and asked an attorney from Legal Aid to attend. On the basis of this community interest, the ESDC purchased the Cullerton delinquent taxes in March 1979, and pursued the use of general receivership as a mechanism to gain title of the property.

The key element at this time was the families interested in acquiring the building. They were related to each other (the men were brothers) and were employed as construction workers. Since they expressed interest in fixing the building themselves, the ESDC decided to explore development of a "sweat equity" approach for building rehabilitation: the use of the families, labor to perform construction and bring down costs, labor which would be accounted as equity in the property. The families' commitment was exemplified by their loaning the ESDC the \$1,500 to buy the Cullerton delinquent taxes (to be repaid if the approach failed or, if successful, to remain in the property as the families' equity).

Two additional steps were taken to move the project forward:

- 1) The Center for Neighborhood Improvement

at the University of Illinois at Chicago was asked to provide architectural help for the project. They assigned an architecture professor and his class to begin work in the fall of 1979; and

- 2) With the help of Legal Aid the ESDC approached the Building Court to request its cooperation in helping it use receivership provisions. The court agreed to be cooperative but lengthened the process considerably.

The architecture students developed a research plan which sought to discover and design for the social and space needs of the families, who were surveyed and asked questions about space use, what they liked and disliked about their current apartments, and what they wanted in their new ones. The study took into consideration both the husband's and wife's perceptions, and contained some insights derived from observation by the students. The results of the study became design parameters. Eventually these guidelines, combined with building inspections and code analysis, provided the groundwork for developing alternative building designs.

In the Fall of 1979, the ESDC was able, after considerable effort, to persuade the court to appoint a general receiver. The ESDC had asked to be the receiver, but the court appointed a professional receiver, saying that it was a conflict of interest for ESDC itself to be receiver while attempting to secure title at the same time. The court-appointed receiver, however, contracted with ESDC to clean out and board up the building. In turn, ESDC made an agreement with the families to do the work themselves in exchange for their labor being accounted as additional equity. On this basis, the court approved issuance of a Receiver's Certificate in the amount of; \$1,500 with the ESDC as beneficiary; it was recorded on the building's title and eventually could be foreclosed on.

The planning process for the Cullerton rehabilitation went well until the question of cost was dealt with, or finally sank in. The problem had several dimensions. First, the families thought, down deep, that they could do a very moderate fix-up of the property without permits, contractors and architects. This in part came from their sense of how to survive, but also reflected the condition of their current apartment. Second, there is an inherent problem in having people accurately portray their space needs and uses

in terms of what they can afford. White the architects.. for example, thought that there would be dramatic space use differences based upon Mexican culture and large families, the survey results portrayed the families using space in a "conventional" manner. Third, the architectural students and their professor, being interested in design, tended to produce design plans ;hat were not as moderate as they might have been. And lastly,, with the building in Demolition and'. Recovery Court, it would be nearly impossible for the work to be done without permits and licensed contractors.

A "gut" rehabilitation cost of \$30,000 per apartment or \$90,000 for three units, was projected for the Cullerton building. The ESDC hoped to combine a CDBG grant, Section 312 low interest loan, and owner sweat equity to make the project work. A. After construction the building would be owned as low income condominiums.

In the fall of 1979 the ESDC met several times with the families to discuss the financing of the rehab. It was emphasized that they were free to back out of the venture. At the second meeting the families stated that the projected cost was too high: they decided to back out. Although they had been aware of the possible cost, from the initial architectural reports, somehow it had not been real. For good reason, they focused on the overall cost rather than on the multi-source financing, realizing that they might incur a significant financial burden if the financing did not come through.

This ended the sweat equity phase of the Cullerton building's story. The families were paid back their 51 500 loan for the taxes and reimbursed for the clean up and board up work they had performed.

CETA Construction Training Program Rehabs Building - The possibility of the families withdrawing had been foreseen and when they did the Cullerton property was added to the ESDC's 1980 work schedule in its construction training program. In existence for six years, and operated in conjunction with the building trades, this program had proved to be a relatively successful approach to employment training and job placement, although a time consuming method of housing rehabilitation.

While slow, employment training was one of the only viable financing mechanisms available to rehabilitated abandoned properties. It combined CETA

training funds with Community Development Block Grant funds for overhead and materials. At completion of construction, the ESDC sold its properties to moderate income homeowners or rented the units to low and moderate income tenants. Construction was started in July 1980.

The winter months of 1979-80 had been spent researching receivership statutes and cases, and a conceptual stumbling block developed over whether the foreclosure of a receivership certificate is done according to the procedures governing mechanic's liens or mortgages. The confusion arose because although the procedures had once been the same, they had been changed in subsequent statutes, but without being redefined in the receivership statute. Chicago Title and Trust Company finally advised the lawyers that it was the mortgage foreclosure procedures that should be followed.

Before going into the story of how the ESDC used receivership to get ownership of a building, lets describe the two different types of receivership and how the court uses them.

The first type is the *utility receivership*. This is used by the court when one or a building's major systems such as a boiler, gas line. or water pipes breaks down. The landlord refuses or is unable to respond and tenants call the city for emergency services. An inspector will go out immediately on one or these calls and the case will go to court as soon as possible. The court will appoint a receiver, who acts as an agent for the court to determine if whatever is wrong can be corrected. The court sets a limit on the expenditure for the repairs, and the receiver determines whether they can be done within the limit (Community Development Block Grant monies are used for repairs and fees). If they can, the receiver has the authority to have them made. Once the repairs are completed, the court orders the owner to pay their cost. If he or she does not pay, a lien is pus on the property. As soon as the repairs are completed the receiver is dismissed. If their costs go beyond the court-set limit, the receiver must go back to court for further advisement. Depending on the case, the judge must decide to go ahead with a larger expenditure or order the building vacated.

The second type of receivership is the general receivership. In contrast to the utility receivership,

* The court has a list of approved receivers. They are

usually attorneys who are paid a fee for this service to the court.

which is short term, the general receivership is a long term strategy for buildings which usually originates with tenants who are totally unsatisfied with their landlord's management and maintenance of their building.

The court will appoint a general receiver under certain conditions. The most important consideration is whether or not the income from the building is sufficient to pay the cost of utilities, and, if there is a backlog of utility bills, whether or not the building can, over a period of a year, accumulate enough surplus to pay them off as well. The second condition is that there be an agreement among tenants to pay their rent. The receiver is paid a fee for managing the building and making the necessary repairs. These amounts are recorded as receiver certificates which are then filed as liens against the building and which, if the owner wants to regain control over the management of the building, he must first pay off. It is the general receivership that ESDC would use to rehabilitate and eventually gain ownership of the 1024 Cullerton building. The abandonment of the building put a special twist on the case.

The ESDC and its lawyers met in the Spring of 1980 with the Assistant Corporation Counsel in order to clarify the entire receivership process. He immediately took command, as politicians are prone to do, and let everyone know that he was responsible for the only case of receivership foreclosure in Cook County. The first mistake, he told them, had been that they had recorded the first certificate improperly. The process slowly began to straighten itself out. Three phases of work, each costing \$30,000, would have individual receiver's certificates. The ESDC would submit to the court a detailed description and cost estimate of the intended work along with the proper petitions. Only after the stated work was completed and approved by the court, however, would the certificate be recorded on the title.

Since the owner of the Cullerton property was now dead and the appearance of heirs unlikely, the ESDC felt confident that the receiver's certificates would not be redeemed upon foreclosure. However, in case redemption occurred, the certificates would protect the ESDC's investment. In fact, since the ESDC's training services were valued at market cost, it was thought unlikely that an heir would redeem at a level far above the economic market value of the property. Although, the ESDC purchased the Cullerton delinquent taxes in 1979, their "pro bono" lawyer failed to file for a tax deed in May 1980. Hence receivership

remained as the only method to obtain title to the Cullerton building.

The building was fully rehabilitated and occupied by three families in the Spring of 1982. ESDC, went through the process of foreclosing on the receiver's certificate and gained title on the building in late 1983.