



## Shelby County Environmental Court JUDGE PATRICK M. DANDRIDGE



### Overview

The Neighborhood Preservation Act allows the Court to appoint a Receiver for the purpose of abating or improving the subject parcel, whether by demolition, rehabilitation, or partial abatement and auction to a qualified buyer.

### Qualifications

Tennessee Code Annotated § 13-6-108 requires any receiver applicant to provide proof of the following at any point in the proceedings.

- An external verification of good standing
- The articles of incorporation and bylaws or formation documents
- Evidence of financial capacity to carry out an abatement plan, including audited financial statements of the person for the past five (5) years, where applicable
- A formal conflict of interest policy governing the staff, officers, and the board of directors, if applicable
- Evidence of the administrative capacity to successfully undertake the abatement plan
- Any other documents, evidence, or assurances that the court may require

### Remediation Plan

All parties interested in becoming a Receiver must present a detailed Remediation Plan to the Court including:

- A detailed budget for nuisance abatement at the property
- A projected timeline for abatement of the nuisance
- Cost of demolition of any or all portions of the nuisance if repair and rehabilitation are not feasible
- Terms, conditions, and availability of any financing necessary to abate the nuisance

### Costs Recoverable

TCA § 13-6-106 provides that the Court shall establish the amount of the **Receiver's Lien**.

TCA § 13-6-102(14) defines "**Receiver's Lien**" as a first priority lien in favor of the Receiver against the subject parcel that, with regard to the subject parcel, upon approval of the court, secures:

- (A) Any and all direct and indirect expenses and costs incurred by the Receiver, including reasonable attorney's fees and costs;
- (B) Any and all outstanding municipal fines, penalties, expenditures, and assessments;
- (C) Any and all amounts attributable to state and local taxes and assessments, including any and all outstanding amounts secured by delinquent property tax liens; and
- (D) A fee, payable to the Receiver, equal to ten percent (10%) of the total of the amounts provided under subdivision (15)(A), but in no event less than two thousand five hundred dollars (\$2,500).

The Court requires that all expenses, whether direct or indirect, be related to the abatement of the nuisance. Receivers must be prepared to justify any and all costs related to abating the nuisance. The Court values thrift and efficiency and withholds the right to reduce costs recoverable if they are not connected to the abatement of the nuisance.

**The Court will determine what expenses, whether direct or indirect, are reasonable.**

### Auction by Receiver

TCA § 13-6-106(j) requires a Receiver to conduct an auction sale if the Receiver's Lien is not satisfied by the owner. TCA § 13-6-106(h)(2) allows a Receiver to ask the Court for permission to conduct an auction and sale of the property in an unabated condition to a Qualified Buyer.

In auctioning the property, the Receiver must conduct an efficient and properly-noticed auction sale. Neither the Receiver, nor any person or entity with an interest in the Receiver may bid in the auction. The Receiver must report to the Court with regular updates on the status and/or results of the auction sale.