



Civil Practice and Remedies Code based on high levels of habitual criminal activity at each property.

B. Defendant Tu W. Nguyen owns and manages the Apartment Properties located at 1824 Thonig Rd., 5701 Gardendale Drive, and 7507 Long Point Rd. On September 14, 2018 this Court entered an Agreed Temporary Injunction against Defendant Tu W. Nguyen requiring Nguyen to hire certified peace officers to patrol the complex; maintain operable security cameras; screen potential tenants and do not lease to anyone convicted of any felony, violent crime, sex crime, narcotics offense, or who has an association with any gang activity; improve the lighting at the Properties; and not knowingly maintain a common nuisance on the Properties.

C. Defendant Tu W. Nguyen has failed to abide by this Court's September 14<sup>th</sup> Order and is in violation of the Order. The Court further FINDS that Nguyen is maintaining multiunit residential properties as a common nuisance.

D. Pursuant to §125.046 of the Texas Civil Practice and Remedies Code, the Court grants Plaintiff's Motion for the appointment of a receiver to manage the properties.

1. The Court, therefore, finds that a Receiver under Texas Civil Practice and Remedies Code §125.046 to carry on all the duties of Tu W. Nguyen at the Properties, including providing for the maintenance and security at the Properties, is warranted to abate the common nuisances at 1824 Thonig Road, Houston, Texas 77055, 5701 Gardendale Drive, Houston, Texas 77092, and 7507 Long Point Rd., Houston, Texas 77055
2. The Court finds that this Order should be approved and that a Receiver shall be appointed.

IT IS THEREFORE **ORDERED** AS FOLLOWS:

1.0 **Appointment of Receiver; Oath and Bond**

1.1 Gerald Warnack (hereinafter the "Receiver") is hereby appointed Receiver of all Receivership Assets described herein.

1.2 The Receiver's bond is hereby set in the amount of 500.00 AND No/100 DOLLARS (\$\_\_\_\_\_).

1.3 The Receiver shall maintain a bond in the amount set by the Court for the entire duration of the Receiver's service.

1.4 The Receiver shall file a report with the Clerk of this Court regarding any change in sureties or other changes to the bond, and lapse or forfeiture of a bond, and shall serve a copy of his report on all parties of record. The Receiver shall file such a report and serve copies on the parties immediately after he receives actual or constructive notice of the event requiring the report, but in any event, no later than THREE (3) business days after actual or constructive notice to the Receiver.

2.0. **Objectives of Receivership; General Duties of Receiver**

2.1. The Receiver shall implement the principal objectives of the Receivership listed herein, perform such other duties as applicable law prescribes, and performs such other duties as the Court may from time to time prescribe.

2.2. The principal objectives of this Receivership shall be as follows:

- A. To secure and inventory all Receivership Assets;
- B. To ascertain the nature and extent of all assets and liabilities of Tu W. Nguyen with respect to the Properties;
- C. To ascertain what actions are needed to secure all assets and satisfy all liabilities of Tu W. Nguyen with respect to the Properties;
- D. To determine how to fund the requirements set out in the Agreed Temporary Injunction and continue to implement those security measures;

E. To assess all Receivership Assets and periodically, as laid out herein, report to the Court on the financial ability of Tu W. Nguyen to fund the security measures set out below, and to fund any needed maintenance on the properties.

3.0 **Tenure of Receiver, Duration of Receivership**

3.1 Once qualified, the Receiver shall continue in his capacity as Receiver and shall perform his duties as Receiver for a period of one year. The Court may discharge the Receiver prior to the one-year period if a Successor Receiver is appointed by the Court for the remainder of the one-year period and qualifies for the office by filing his bond and oath with the clerk of the Court.

4.0 **Receiver Assets**

The following assets associated with the Properties, hereinafter referred to as Receivership Assets, are hereby placed in the custody and control of the Receiver:

4.1 All monies and other intangible assets owned by Tu W. Nguyen, including without limitation, all bank accounts and all current accounts receivable, all future accounts receivable, all maintenance fees due and owing, and all checks for maintenance services in the possession or control of Tu W. Nguyen associated with the Properties;

4.2 All real properties, whether held in fee, by lease, by easement or otherwise, held in the name of Tu W. Nguyen associated with the Properties;

4.3 All maintenance equipment that Tu W. Nguyen has custody and control over;

4.4 All records and legal documents of Tu W. Nguyen associated with the Properties, including but not limited to the following:

A. All documents evidencing bills, payments and receipts for rents;

B. All bank statements

- C. Income and properties tax records including personal Form 1040 Schedule C or other tax forms reflecting income or expenses attributable to Tu W. Nguyen;
- D. Any general ledgers, income statements or balance sheets;
- E. All leases and fee agreements for tenants of the Properties;
- F. All records of any legal action or collection procedures taken by Tu W. Nguyen or against Tu W. Nguyen;
- G. All recordations, memorandums, or notes of any board meetings of Tu W. Nguyen.
- H. Any By-Laws for the the Properties;
- I. All electronic or computer-based documents, tables, e-mails and other information from or to Tu W. Nguyen relating to the Properties that may be stored on computer hard drives, computer discs of any kind, data storage devices or other electronic data storage devices;
- J. All instructions describing how to retrieve, organize, or display electronic or computer-based documents, tables, e-mails and other information relating to the Properties, whether the instructions are in electronic or hard copy format;
- K. True and correct copies of all deeds, easements, rights of way, instruments, notes, deeds of trust, bills of sale, financing statements, and any other legal documents showing title the Properties or any liens or encumbrances thereon.

5.0 **Transition to Receivership – Information Defendant Tu W. Nguyen is to Provide to Receiver**

- 5.1 Within THREE (3) business days after the Receiver takes the oath and files the oath and bond with the Court, the Receiver shall serve all counsel of record with a true and

correct copy of the bond and oath as filed and signed. These copies will be presumed to have been received within THREE (3) calendar days of the date they were sent.

5.2 Immediately upon receipt of the copy of the bond and oath by counsel of record for the Defendant:

A. The Defendant shall immediately provide a copy of this Order to any of his agents, employees, or any person acting on his behalf, who:

1. has possession or control of any Receivership Assets; or
2. is receiving or collecting any fees, monies from tenants at the Properties.

B. The Defendant, his agents, employees, or any person acting on his behalf, shall turn over exclusive possession and control of Receivership Assets to the Receiver.

C. The Defendant, his agent, employees, or any person acting on his behalf, shall immediately cease collecting any fees or monies from tenants at the Properties that are owed to Tu W. Nguyen.

D. The Defendant, his agents, employees, or any person acting on his behalf, shall direct tenants, residents or occupants at the Properties who owe money to Tu W. Nguyen to tender the money to the Receiver;

E. The Defendant, his agents, employees, or any person acting on his behalf, shall forward any correspondence relating to Tu W. Nguyen and the Properties then in hand to the Receiver and shall forward any additional correspondence as it is received.

F. Within two weeks of this appointment, the Receiver will call a meeting of the tenants at the Properties to introduce himself and explain his responsibilities and duties.

6.0 **Authority of Receiver** .

6.1 Upon taking the required oath and filing it along with the required bond, the Receiver is authorized, subject to the control of the Court, to take any steps necessary to lawfully and properly conduct the business of Tu W. Nguyen associated with the Properties, including the following:

- A. Taking control of the Properties;
- B. Collecting and taking possession of the Receivership Assets, wherever they may be located;
- C. Collecting all rents, fees, monies due from the tenants of the Properties by check, money order, or other traceable form.
- D. Making any repairs necessary to bring the properties into compliance with minimum standards in local ordinances;
- E. Making payments necessary for the maintenance or restoration of utilities to the Properties, if necessary.
- F. Affirming, renewing, or entering into a new contract providing for insurance coverage on the properties, if necessary;
- G. Exercising all other authority that an owner of the Properties would have except for the authority to sell the Properties;
- H. Ensuring the protection and preservation of Receivership Assets;
- I. Providing continuous maintenance and security at the Properties, including without limitation:

1. **Security**: Maintain licensed peace officers and/or licensed security guards to provide security at the Properties for a minimum of 8 hours a day, 7 days a week with rotating shifts to include days and nights.

2. **Activity Log**: Have each peace officer complete an "Activity Log" documenting for each shift worked the following information:

(a) start date, day, and time of shift, b) end date, day, and time of shift; officer names, badge numbers, and telephone contact information; c) any criminal or suspicious activity observed during the shift; d) contact information for all complainants; e) all information concerning any repair or replacement; f) and note on the log the time and date of any gang graffiti observed on the Properties. The activity logs must be maintained by the Defendants at the Properties until final judgment in this case and shall be provided to law enforcement upon request.

3. **Video Surveillance**: Install and maintain security cameras located at the Properties and make sure they are operable and recording at all times throughout the Properties for each building on the Properties. These cameras shall be accessible through the Internet and remotely through cell phones. Provide a Digital Video Recorder (DVR) that has the ability to record and store streaming video for more than 30 days, has the capability to burn DVD's and capability to download video to a USB portable storage device. The Digital Video Recorder must record at all times, 24 hours a day/ 7 days a week. In addition, all camera recordings shall display the date and time of the recording. The digital video recording shall be made available to law enforcement personnel upon request.

4. **Screening renters**: The Receiver shall adopt a new lease for any new or renewing tenant at the Properties, and a new lease shall be created for any tenant currently living on the Properties without a valid lease. The lease must be a standard lease, substantially similar to those provided by the Texas Apartment Association



(TAA), including the TAA condominium lease agreement form K, L-1 or L-2, or the TAA apartment lease agreement form A, B-1 or B-2, or the Texas Association of Realtors residential lease, modified to include a provision that states that the owner will not lease to anyone convicted of any felony, violent crime, sex crime, narcotics offense, or has an association with any gang activity; and that all prospective tenants and occupants 18 years or older present a photo identification that can be issued from any country, and state the name and address of each person who will be occupying the rental unit. Each tenant will submit to a background check prior to renewing a lease or beginning a new lease. The documents submitted shall be kept in file for review and made available to all parties to this suit through their counsel. All persons living in a unit shall be listed on the lease and abide by the occupancy limits for each unit as set out in the lease. The Receiver shall evict any tenant who violates the occupancy limits at the Properties. Rent must be paid in a form that is documentable. Proof of payment of the monthly rent shall be copied and given to the Receiver for filing and kept in a file that can be made available to all parties to this suit through their counsel.

5. **Evicting Tenants**: The Receiver shall enforce the terms of the lease and terminate the lease for any tenant who engages in criminal conduct, regardless of whether or where arrest or conviction occurs, including but not limited to: manufacturing, delivering, or possessing a controlled substance or drug paraphernalia; engaging in or threatening violence; possessing a weapon prohibited by law; discharging a firearm in the Properties; prostitution, promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution as prohibited by the Penal Code; and disturbing or threatening the rights, comfort,

health, safety, or convenience of others in or near the Properties. Additionally, the Receiver shall evict any tenant or occupant of an apartment who is arrested, charged, detained, convicted, or given deferred adjudication or pretrial diversion for (1) an offense involving actual or potential physical harm to a person, or involving the manufacture or delivery of a controlled substance, marijuana, or drug paraphernalia as defined in the Texas Controlled Substances Act, or (2) any sex-related crime.

6. **Lighting**: The Receiver shall inspect the Properties for any burnt out or missing lights, and any damage or missing light fixtures and repair or replace them immediately. The Receiver shall further install and use lighting on the properties to eliminate dark spaces in areas, including, but not limited to, parking lots, courtyards, trash receptacle areas, mailrooms, laundry rooms, and walkways; and to illuminate building numbers.

7. **Fencing**: The Receiver shall maintain an entrance gate at each of the Properties so that it is operable and restricts entry into the Properties for residents, or their guests only.

8. **Board up abandoned units, broken windows and remove abandoned vehicles**: Within one week of vacancy, the Receiver shall board up any abandoned units, broken windows, and broken doors on the Properties so those units do not cause a safety hazard to residents and so that vagrants or animals do not enter, and remove abandoned or junked vehicle that are inoperable or being dismantled for parts. The Receiver has three months from the time of vacancy to make permanent repairs to the unit.

9. **Hiring specialized experts**: The Receiver shall higher specialized experts, including, but not limited to plumbers, electricians, roofers, engineers, as necessary to

assess maintenance needs at the complex to comply with City of Houston Codes and all required codes. This includes hiring experts to investigate the cause for the high water bills at the Properties.

10. **Accepting and Receiving Funds:** The Receiver shall accept any necessary fees for providing maintenance and security at the Properties.

11. **Payments:** The Receiver shall provide all payments due and owing for maintenance and security at the properties as the bills become due and services are rendered.

7.0 **Hiring Professional and Consultants:**

7.1 The Receiver may hire accountants, attorneys, engineers, plumbers, roofers, consultants, or other as necessary to fulfill his duties relating to the Properties and pay them out of income from the Properties as bills come due and services are rendered.

7.2 The Receiver's authority to make any expenditures of the type described in Paragraph 7.1 is limited as follow:

A. The Receiver may not contract for, or incur attorney's fees in excess of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) in the aggregate for the duration of his receivership, unless otherwise approved by the Court.

B. The Receiver must receive prior court approval for any expenditure in excess of \$5,000 if making any repairs necessary to bring the properties into compliance with minimum standards in local ordinances and purchasing materials necessary to accomplish repairs.

8.0 **Sale or Transfer of Properties:**

8.1 Nothing contained herein shall be construed to authorize the Receiver to sell or transfer the Properties.

9.0 **Financial Limitations: Depositories**

9.1 The Receiver shall not incur expenses or make expenditures on behalf of the Properties that are not reasonably necessary to accomplish his duties as outlined in this Order.

9.2 The Receiver shall not make expenditures not authorized by this Order unless specifically ordered by the Court upon a motion agreed to by the parties or upon notice and a hearing.

9.3 The Receiver shall hold all funds received on behalf of the Properties in federally insured bank accounts in amounts that do not exceed federal insurance coverage limits for any account the Receiver maintains. The Receiver may pay Tu W. Nguyen expenses authorized by this Order or subsequent orders of this Court from these bank accounts.

10.0 **Receiver's Compensation:**

10.1 The Receiver's compensation shall be paid monthly out of Tu W. Nguyen's personal and business account(s). If the account(s) does not have enough income to pay for the Receiver's compensation and the Receiver's duties under this Order, the Receiver shall immediately request a hearing before the Court, with three days notice to all parties of record.

10.3 Costs include reasonable travel expenses, postage, copying, faxing or incidental office expenses.

11.0 **Inventories, Reports and Records**

11.1 **Filing and Service List:** The Receiver shall file all reports described in paragraphs 11.2-11.4 below with the Clerk of this Court on or before the deadlines preserved therein. The Receiver shall also serve copies on all parties of record.

- 11.2 **Inventory and Supplemental Inventories.** Within thirty (30) days after filing this oath, the Receiver shall file an inventory all properties owned by Tu W. Nguyen. If Tu W. Nguyen obtains additional properties, the Receiver shall file a supplemental inventory noting the acquisition as soon as practical. The Receiver shall file the inventory and all supplemental inventories with the Clerk of this Court and serve a copy on each party of record.
- 11.3 **Monthly Reports:** The Receiver shall produce complete reports on all activities performed by the Receiver for each calendar month or portion of a calendar month during his tenure. Each monthly report shall be filed with the Clerk of this Court and a copy served on each party of record not later than the last day of the following month (for example, a report for January 2019 shall be filed and served on the parties not later than February 29, 2019). Each monthly report shall contain, at a minimum, records of all business transacted and the status of all accounts.
- 11.4 **Four-Month Status Report:** On or before the last day of the calendar month, four months following the day this Order is signed, the Receiver shall complete and file a report that contains at a minimum the following information:
- A. The condition of the Properties' finances and a statement of whether revenues are adequate to maintain and secure the Properties as set out in Receiver's duties above.
  - B. A description of any repairs or replacements needed to the infrastructure of the common areas of the Properties to be in compliance with all local codes and ordinances, and whether there are any water leaks, roofing leaks or plumbing problems that require immediate attention.

C. A description of any changes accounting and bookkeeping that were implemented by the Receiver and any additional changes that the Receiver recommends for the future.

D. A description and analysis of potential options for accomplishing the goals described in paragraph 11.4A and 11.4B. Subject to limits on expenditures set forth in this Order, the Receiver is not limited as to the number or type of portions he may analyze. The options may include, without limitations, the following:

1. a description of what repairs or replacements of the infrastructure of the common areas at the Properties that need to be made in order to bring it into compliance with local codes and regulations.

2. an analysis of the income and expense of the Properties and how Tu W. Nguyen could improve its bottom line so it can pay for the needed maintenance and security.

3. an analysis of the crime committed at the Properties and what tools could improve its bottom line so it can pay for the needed maintenance and security.

11.5 **Professionals and Consultants for Four-Month Status Report:**

Subject to the terms and limitations stated herein, the Receiver may hire professionals and consultants, if they are reasonably needed to assist him in preparing the report required by Paragraph 11.4. The expenses incurred in generating and filing the report required by Paragraph 11.4 shall not be included as part of the Receiver's regular compensation.

11.6 **Expenditure Limit on Four-Month Status Report:**

Notwithstanding any other provisions in this Order, the total cost of generating and filing the report required by Paragraph 11.4 shall not exceed \$2,000 unless additional costs are approved by the Court.

- 11.7 **Final Accounting:** Prior to his discharge, the Receiver shall prepare a final accounting, including a summary of his activities, and a summary of all assets and liabilities of the Properties subject to his control as receiver. A copy of the report will be served on all parties and must be approved by the Court.
- 11.8 **Records:** The Receiver shall be responsible for maintaining all business records associated with the Properties. The Receiver may designate and compensate an agent to keep records on his behalf, so long as it does not unreasonably interfere with his ability to make records available as provided in Paragraph 11.9 hereof.
- 11.9 **Making Records Available:** Regardless of whether the Properties' records are in the Receiver's possession or in the possession of the Receiver's agent, the Receiver shall make the records readily available to counsel of record for any party to this lawsuit for inspection and copying during normal business hours, provided a written request is made and copies served on all other counsel of record.

12.0 **Notification of Receiver**

- 12.1 For the purpose of notice to or delivery of any item to the Receiver, the Receiver's address is 4412 Alameda Rd., Suite A, Houston The Receiver's telephone number is (713) 523-7402.

13.0 **Miscellaneous:**

- 13.1 Plaintiff is allowed such writs and processes as may be needed for the enforcement of this Order. The Receiver will post this Order at the Properties and no further service is required.

- 13.2 This Order may be executed in multiple parts, which together shall constitute a single original instrument. Any executed signature page to this Order may be transmitted by fax transmission to the other parties, which shall constitute an original signature for all purposes.
- 13.3. It is further ordered that the Defendant, the Receiver, and/or another on their behalf shall not make, and this Court will not approve, any claim against the State of Texas or any of its agencies, agents, servants, employees for any fees, costs, expunges, damages or any other monetary claims incurred in relation to this receivership.

Signed on: January 11, 2019.

  
JUDGE PRESIDING





I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.  
Witness my official hand and seal of office this January 11, 2019

Certified Document Number: 83314240 Total Pages: 16

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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