

LPA Receivership: The Theory and the Practice

David Burgess, BSc FRICS FNARA
Director Templeton LPA and Joint Receiver

7th June 2011

LPA Receiverships: The theory and the practice

- Benefits of receivership
- Objectives of receivership
- The borrower
- The lender
- Property management
- The tenant
- Summary

Benefits

LPA Receiverships deliver many benefits to the lender, borrower and occupier.

- Protect the borrower's interest
- Protect the lender's security
- Collect rent under professional management
- Protect the tenant's rights
- Avoid unnecessary void periods
- Agree an appropriate strategy and deliver
- Comprehensive MI for the lender
- Insurance, PI and audit trail
- Specialist expertise

Objectives of receivership

- Address mortgage arrears
- Dispose of the property if management is not viable
- Strategies employed:
 - let the property “as is”
 - undertake works and then let
 - sell
- TCF compliant

The borrower

Fraudulent

- Overstated income
- Overstated property value
- Failure to develop saleable units
- Nonexistent properties
- SARBS

For most of these situations a Receiver can help – some he can't



The borrower

Uncooperative

- Fails to provide information
- Frustrates access
- Attempts to collect rent
- Intimidates tenants
- Installs tenants



Cooperative

- Cooperative
- Facilitates management control by the receiver
- Contributes to the cost of works
- Undertakes works
- Communicates effectively



The lender

A potentially confusing relationship

- The receiver is the agent for the borrower
- The receiver is appointed by the lender

How close should the relationship be?

In practice, very close

- The receiver's strategy is agreed with the lender
- The receiver protects the value of the lender's security
- The receiver seeks to improve the mortgage account
- The receiver provides detailed MI
- The receiver and the lender undertake frequent reviews
- The receivership will be TCF compliant

But there are pitfalls

- The lender can become too intrusive
- The receiver's actions can be subject to micro management
- The lender might not fully appreciate the receivership process
- The receiver's professional responsibilities might not be fully recognised
- The lender might think that receivership is 'repossession by another name'
- The terms of the relationship need to be carefully documented

**There needs to be
teamwork with
mutual respect**

Property management

The property manager is a key supplier to the receiver

Effective property management is essential to deliver:

Rent
collection

Arrears
management

Repairs/
maintenance

Statutory
Compliance

Contractor
management

There are many potential pitfalls impeding delivery

- Lack of information on appointment
- Quality of receivership properties
- Quality of receivership tenants
- Investment in properties vs bare compliance
- Central control vs local knowledge
- Protection from Eviction legislation
- Control of expenditure
- Risk management



Tightly coordinated working is essential if the strategy is to be delivered

The tenant

- The tenant has rights
- Receivership respects the tenant's position
- Repossession carries reputational risks
- Occupation safeguards asset value
- SARBS need to be treated with care
- Rents are rising and can deliver surpluses against mortgage payments

The tenant

We need to look after tenants but...

- **Quality is sometimes poor**
- **Sometimes borrowers intervene**
- **Arrears are difficult to recover**
- **Plentiful advice available to disgruntled tenants**
- **Sometimes tenants are uncooperative**
- **Tenants may try to exploit remote management**
- **Deposits (or lack of) cause problems**

Receiverships treat tenants fairly

Tenants must acknowledge their responsibilities

Arrears must be addressed relentlessly

Summary

- Receiverships deliver for all parties, in theory
- Receivership practice is fraught with pitfalls
- Self interest intervenes
- The receiver needs to manage tightly
- Clear objectives and effective communication are essential
- Combined with experience, professionalism and mutual respect