

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

SOUTHEASTERN HOUSING COURT  
DEPARTMENT

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TOWN OF HANOVER,  
Petitioner,

v.

HAROLD WATT, JR.,  
Owners

Respondent.

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**MOTION FOR APPOINTMENT OF RECEIVER**

Now Comes the Petitioner, Town of Hanover (Hanover) pursuant to M.G.L. c. 111, Section 127I and respectfully requests that a Receiver, James J. Cotter III, Esq. be appointed in the above-noted matter.

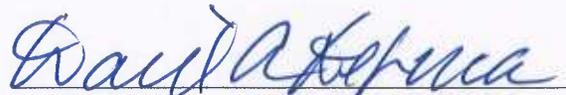
As reasons therefore, the Town states that the subject property is non-complaint with multiple building and health code requirements and remains a risk to the occupant and to public safety.

The Town now moves for the appointment of James J. Cotter, III, Esq., P.O. Box 270, Quincy, MA 02171 (617-899-0549) to serve as the Receiver and to report to the Court and to the parties his recommendations and actions to remedy the aforementioned code violations.

In further support of this motion and affidavit detailing Mr. Cotter's experience and interest in this matter is attached.

Respectfully Submitted,  
Town of Hanover  
By its attorney,

Dated: September 28, 2016

A handwritten signature in blue ink that reads "David A. DeLuca". The signature is written in a cursive style and is positioned above a horizontal line.

David A. DeLuca, Esq. (BBO# 543964)  
Murphy, Hesse, Toomey & Lehane, LLP  
300 Crown Colony Drive, Suite 410  
Quincy, MA 02169  
Tel: (617) 479-5000  
ddeluca@mhtl.com

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**AFFIDAVIT OF JAMES J. COTTER III**

1, James J. Cotter III, having personal knowledge of the facts stated herein, under oath depose and state the following:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts and have a business address at Post Office Box 270, No. Quincy, MA 02171. A true and accurate copy of my resume is attached hereto.

2. During the past thirteen (13) year period, I have been appointed by the City of Boston and Southeast Divisions of the Housing Court Department and several divisions of the District Court department as receiver for approximately forty five (45) single family and multi-unit properties (the "Properties") containing in excess of one hundred thirty five (135) residential units. I have also been appointed the receiver for an eighteen (18) room single room occupancy home intended, after renovation and upgrading, as a residence for veterans. I have acted as the attorney of record for several receivers.

3. As receiver, I have been responsible for the rehabilitation, renovation, management and, in some instances, the sale of the Properties. With the assistance of an architect and contractors, I have been responsible for the substantial rehabilitation or renovation of approximately sixteen (16) of the multi-unit Properties and the group home. When I have sold receivership properties, I have approved plans and monitored the subsequent rehabilitation. (A list of properties for which I was the receiver is attached hereto.)

4. I prepared receivership forms and materials and participated in the MCLE Neighborhood Blight, Neglected and Abandoned Properties, Receiverships seminar in 2008 and

2013 and was part of a panel presentation on receiverships made for the personnel of the Housing Court Department in 2007.

5. I have viewed the exterior of 374 Brook Road, Milton, Massachusetts (the "Property") and am prepared to be appointed the receiver for the Property. If appointed, I would work with my architect, contractor, real estate broker and the Plaintiff's employees to assess the nature and cost of the work required to rehabilitate the Property, and to determine the economic feasibility of the project and, then, propose a course of action. If economically feasible, I would seek financing for the rehabilitation and complete the project.

Signed under the penalty of perjury this \_\_\_\_\_ day of September 2016

James J. Cotter III BBO# 101620 P.O. Box 270  
No. Quincy, MA 02171  
617 899 0549  
jjeotter3rd@verizon.net

**James J. Cotter, III**  
Attorney at Law  
Post Office Box 270  
No. Quincy, MA 02171  
Telephone: (617) 899-0549 • Facsimile: (617) 984-5858  
email address: [jjcotter3rd@verizon.net](mailto:jjcotter3rd@verizon.net)

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1980 to Present Private practice of law with concentration in real estate and development as attorney and principal

Real estate responsibilities have included representation of developers, borrowers and lenders in various aspects of land acquisition and development, including site planning; due diligence; public and private financing; construction estimating; environmental, zoning and building permitting; negotiations with public entities; and, supervision and coordination of consultants, engineers, architects, attorneys and other professionals. Since 2001, I have acted as court appointed receiver and have been responsible for the rehabilitation or repair, management, and lease or sale of more than 45 residential properties in Boston, Brockton, Chelsea, Somerville, Quincy, Weymouth, Braintree, Medford, Plymouth, Middleborough, and New Bedford, MA. I have also represented several receivers.

1997-2007 Posternak, Blankstein & Lund, Boston, MA

Responsible for the representation of business clients in all aspects of commercial real estate matters, including acquisition, development, financing, zoning and sales and leasing transactions.

1978-1980 Greater Boston Legal Services,  
Staff Attorney, Juvenile Law Reform Project

Responsible for conception and implementation of litigation strategy for class action lawsuit against Department of Social Services on behalf of families and children for claims arising out of the mismanagement of child welfare programs.

1977-1978 Department of the Attorney General, Boston, MA  
Assistant Attorney General, Insurance Section of the Consumer Protection Division

Responsible for the formulation and implementation of investigation and litigation strategy to enforce insurance consumer protection laws.

1971-1976 Greater Boston Legal Services, Boston, MA  
Staff Attorney (1971-1973)/Managing Attorney (1973-1976)

Responsible for legal and administrative management of neighborhood office, including supervision of attorneys, law students, college volunteers, paralegals and support staff and oversight of law school clinical programs. Maintained active civil litigation caseload and represented and counseled numerous community organizations.

Education Boston University School of Law, J.D., 1971  
College of the Holy Cross, A.B. (Political Science), 1968

**James J. Cotter, III**  
Attorney at Law  
Post Office Box 270  
No. Quincy, MA 02171  
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List of Receivership Properties

<u>Address</u>	<u>Units</u>	<u>Condition</u>	<u>Outcome</u>
Garfield Avenue Chelsea, MA	2	vacant/substandard	heavy renovation and property under P&S
Cherry Street, Plymouth, MA	1	lead paint remediation occupied	condition remediated
Raymond Street Medford, MA	1	vacant/hoarding	cleaned property, prepared for sale and sold
Harold Street Medford, MA	1	vacant	property sold
Saunders Street Weymouth, MA	3	lead remediation occupied	condition remediated
Bay Street Hull, MA	9	substandard occupied	made general repairs and owner sold property
Tudor Street South Boston, MA	1	occupied/hoarding	relocated tenants/cleaned and and owner sold property
Hartford Street Roxbury, MA	18 SRO	partially occupied substandard	relocated tenants/heavy renovation/repairs
Dale Street Roslindale, MA	1	drug den/vacant	hazmat cleaning/sold
No. Manchester Street Brockton, MA	3	lead remediation occupied	condition remediated
Bowdoin Street Dorchester, MA	3	vacant/substandard	secured and sold property

Bowdoin Street Dorchester, MA	3	vacant/substandard	made minor repairs and sold
Ames Street Medford, MA	1	vacant/substandard	secured/cleaned/sold
Sutton Street Dorchester, MA	3	vacant/dilapidated	secured/minor repairs/sold
Seaver Street and Roxbury, MA	9	partially occupied/ in need of rehab	secured/minor repairs family owner sold
Canterbury Road Middleborough, MA	1	vacant/hoarding	cleaned out for reoccupancy
Wood Street Hyde Park, MA	2	vacant/minor repairs	made minor repairs
Albion Street Somerville, MA	2	vacant/repairs	made minor repairs and sold
Ossipee Road Somerville, MA	2	vacant/rehab needed	secured/minor repairs and sold
Warren Avenue Roxbury, MA	3	vacant/rehab needed	rehabbed, rerented
Edgewood Street Roxbury	3	occupied/substantial repairs needed	repaired
Regent Street Roxbury, MA	3	vacant/substantial repairs needed	secured/minor repairs and sold
Highland Street Roxbury, MA	3	vacant/substantial rehab needed	secured and sold
Guild Street Roxbury, MA	3	vacant/rehab needed	substantial rehabbed property
Woodland Street Roxbury, MA	3	vacant/substantial rehab needed	secured and sold property
Gaston Street Roxbury, MA	3	lead remediation/repairs occupied	remediated condition and extensive repairs

Circuit Street Medford, MA	2	lead remediation/ minor repairs/occupied	remediated condition and made repairs
Evelyn Street Mattapan, MA	3	lead remediation/repairs /partially occupied	remediated conditions made repairs <i>no further work</i>
Arnold Street New Bedford, MA	2	lead remediation occupied	remediating condition
Frederick Avenue Medford, MA	2	extensive repairs/ vacant	made exterior repairs and completing renovation
East Fourth Street South Boston, MA	6 (2 bldgs)	gut rehab needed vacant	one building foreclosed and am repairing second
Devon Street Roxbury, MA	2	extensive repairs or rehab needed/vacant	property under P&S
Pinckney Street Somerville, MA	2	gut rehab needed vacant	property sold
Greenwich Street Roxbury, MA	1	extensive repairs needed vacant	supervised owner's repairs
Alexandra Hotel South End, MA	10-20 units potential	gut rehab vacant	with developer, formulated develop- ment plan/court let owner do work, but never completed
Pearson Street Somerville, MA	3	completion of rehab required/vacant	sold property

Rear Bridge Street Weymouth, MA	1	light rehab vacant	in progress
Plymouth Avenue Braintree, MA	1	tear down vacant	sold to contractor who demo'd and built new house
Arbutus Street Dorchester, MA	3	rehab occupied	in progress
Highland Avenue Medford, MA	1	partial clean out vacant	completed
Everett Avenue Dorchester, MA	6	gut rehab vacant	selling to contractor
Washington Street Quincy, MA	3	gut rehab vacant	sold to contractor and monitoring rehab
McArthur Street Somerville, MA	3	gut rehab vacant	sold to contractor and monitored rehab
Kidder Street Quincy, MA	2	tear down vacant	marketing for sale
Stoney Beach Plymouth, MA	1	tear down vacant	sold to contractor and monitored rehab
Kilmer Ave Taunton, MA	2	lead remediation occupied	in progress

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ORDER APPOINTING RECEIVER

Pursuant to G.L. c. 111 sec. 127F-127I and the general equity powers of this Court, the Court finds with respect to the property located at 840 Washington Street, Hanover, MA (the "Property"), that the Property is used for residential purposes, that the Plaintiff has inspected the Property, or parts thereof; and has determined that conditions exist in the Property which are in violation of Article II of the State Sanitary Code, and that such conditions may endanger or materially impair the health or well-being of any occupants and the public.

The Court finds that the Property is owned by the Defendant; the Defendant has failed to manage and maintain the Property in compliance with relevant laws and regulations; this failure endangers or materially impairs the health and safety of any occupants of the Property and the public and, other remedial measures are not adequate to remedy the conditions affecting the Property (the "Illegal Conditions").

The Court further finds that the available income, if any, from the Property is necessary to correct the Illegal Conditions.

The Court hereby ORDERS as follows:

1. James J. Cotter, III, P.O. Box 270, No. Quincy, MA 02171, is appointed receiver (the "Receiver") of the Property. It is the intent of the Court and this Order that the Receiver shall, to the maximum extent possible, concentrate on rehabilitating the Property and/or correcting the Illegal Conditions.
2. Immediately upon acceptance of such appointment, the Receiver shall take possession of the Property and all its appurtenances and all books, financial records thereof and all

other documents including, without limitation, insurance policies, mortgage related documents, service contracts and any other document which relates to the reasonable maintenance and management of the Property and all equipment, keys, fixtures and supplies used or useful in connection therewith. He will inventory the Property to determine and anticipate the probable need for future repairs and maintenance.

3. The Receiver shall have all powers and duties conferred by G.L. c. 111 sec. 1271, including, without limitation, the following:

- a. the Receiver may determine ownership of and lien holders on the Property;
- b. the Receiver may collect all revenues due from, or on account of the Property, including, without limitation, insurance proceeds and payments and rents, if any, paid or due on or after the date of this Order. The Receiver shall have authority to file insurance claims and to commence and prosecute summary process actions for nonpayment of rent or other cause as of the date of this Order. At such time as the Receiver elects to pursue eviction, the tenants, if any, have the right to claim defenses under G.L. c. 239, sec. 8A; provided, however, this Court may, if such rent is required to accomplish the purposes of this receivership, determine that such rent shall be paid when due and, upon completion of the purposes of this receivership, determine the amount of rent actually due during the existence of the Illegal Conditions, award an abatement of rent and set a schedule for the recoupment of any rent paid that was not due;
- c. the Receiver may accept and receive loans and/or advances from existing mortgage lenders of the Property. The Receiver may borrow money from other sources with the prior approval of the Court and, on at least seven (7) days prior notice to the Defendant, mortgagees and lienors of record or otherwise known to the Receiver. The Receiver shall have the benefit of the lien established pursuant to G.L. c. 111 sec. 1271 and may assign all or a portion of such lien to lenders.
- d. the Receiver may employ persons or agents and enter into contracts to accomplish the purpose of this receivership and the Receiver's duties. The Receiver shall demonstrate to the Court the selection of the lowest and most responsible bid and responsive person capable of performing necessary work.
- e. the Receiver shall deposit all amounts received on account of the Property into a separate account under the control and the name of the Receiver in his official capacity.
- f. in conjunction with the Plaintiff, the Receiver shall inspect the Property to determine what repairs are required and to prioritize the need for repairs.
- g. the Receiver shall disburse funds received on account of the Property in the following order of priority:
  - i. to make emergency repairs needed for the immediate health and safety

ii. to pay for heat and/or hot water and other essential utilities and services and for securing vacant units;

iii. to make other repairs and perform such maintenance as he determines in his reasonable discretion to be necessary, including the costs of contracted services to achieve the purposes of this receivership;

iv. to reimburse the Receiver for the actual cost of out of pocket expenses incurred in his capacity as Receiver, including, without limitation, its reasonable fees and costs, labor costs, reasonable fees for his services and cost of operation specifically attributable to the receivership.

h. the Receiver has authority to make disbursements and exercise authority over the Property which is not inconsistent with this Order and as set forth in G.L. c. 111 sec. 1271;

i. the Receiver may set reasonable rents and terms of tenancies taking into account the value of the rented unit; the need for rental income in order to make repairs; the ability of the tenant to pay; and, the effective and reasonable management needs of the Property. To this end, the Receiver may enter into written leases or rental agreements with occupants.

j. the Receiver shall manage the Property and enter into contracts for repairs of maintenance of the Property. He may move families from one unit to another if, in his reasonable opinion, and with the consent of the family, this is the most efficient manner to ensure rapidly the safety and welfare of the occupants of the Property. The Receiver may, in the exercise of his discretion and consistent with this Order begin repairs in vacant units and repair one unit at a time. The Receiver may move tenants into vacant habitable units when they become available or seek orders from this Court requiring occupants to vacate the Property.

k. The Receiver may change any and all locks at the Property if, in the reasonable opinion of the Receiver, this is necessary to protect the safety and welfare of the occupants.

#### 4. Pursuant to G.L. c. 111 sec. 1271:

a. the tenants and occupants of the Property are hereby ordered and directed to pay their rent to the Receiver starting as of the date of this Order and the tenants and occupants shall have the responsibility to inform the necessary public authorities to make payments directly to the Receiver.

b. the Defendant shall comply with the terms of this Order, cooperate with the Receiver and, within seven (7) days of this Order (or, in the case of documents later requested by the Receiver or received by the Defendant) provide the Receiver with (i) the

names and addresses of all lien holders and copies all documents related to such liens; (ii) copies of all documents received after the date of this Order relating to such liens; (iii) copies all insurance policies affecting the Property; (iv) duplicate keys far all locks at the Property; and, (v) all other documents requested by the Receiver on an ongoing basis.

5. The requirement that the Receiver furnish a bond is waived. The Receiver may, but shall not be obligated to, place insurance on the Property.

6. Pursuant to G.L. c. 111 sec. 1271 and the inherent equity power of this Court and in order to accomplish the purposes of this Receivership, the Defendant, his agents, and employees are enjoined, until further order of this Court, from conveying, transferring, assigning, mortgaging, encumbering or otherwise hypothecating, directly or indirectly, in whole or in part, any interest, including, without limitation, any legal or equitable interest, in the Property, and, in the case of a mortgagee, whether or not a party hereto as long as such mortgagee has actual notice of this Order, in addition to the foregoing, from assigning its mortgage and from commencing or proceeding with any action to foreclose on any mortgage or perfecting any such foreclosure proceeding through the execution or recording of a foreclosure deed or otherwise.

7. The failure of any party affected by this Order or any entity with an interest in the Property who has actual knowledge of this Order, to comply with its provisions or with the provisions of any subsequent order entered herein shall be subject to a complaint for contempt filed by the Receiver or Plaintiff.

So Ordered,

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Justice of the Housing Court Department  
Southeast Division  
Dated:

Accepted:  
Receiver

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Dated:

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

SOUTHEASTERN HOUSING COURT  
DEPARTMENT

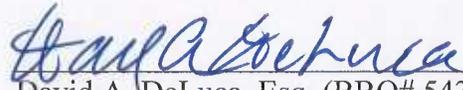
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**NOTICE OF HEARING ON APPOINTMENT OF A RECEIVER**

Now comes the Petitioner, Town of Hanover (Hanover) and hereby notifies the Respondent Harold Watt, Jr., of a hearing on Petition for Receivership and Motion for Appointment of a Receiver, James J. Cotter, III, Esq., scheduled for

Respectfully Submitted,  
Town of Hanover  
By its attorney,

Dated: September 28, 2016

  
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 David A. DeLuca, Esq. (BBO# 543964)  
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