

COMMONWEALTH OF MASSACHUSETTS

WESTERN DIVISION, SS.

HOUSING COURT  
DEPARTMENT OF  
THE TRIAL COURT  
CIVIL ACTION  
No. 12-CV- 1196

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CITY OF SPRINGFIELD  
CODE ENFORCEMENT DEPARTMENT  
HOUSING DIVISION,

Plaintiff

v.

CARMEN RIVERA (owner),  
HAP, INC. (mtgee)  
BANK OF AMERICA (mtgee)  
Defendants

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182 Lebanon Street, Springfield, MA

ORDER AUTHORIZING ENFORCEMENT OF  
RECEIVER'S PRIORITY LIEN AND AUTHORIZING  
THE RECEIVER TO SELL THE PROPERTY LOCATED AT  
182 LEBANON STREET, SPRINGFIELD, MA  
TO SATISFY ITS PRIORITY LIEN

This matter coming to be heard on the Receiver's Motion to Enforce Priority Lien and Obtain Order Authorizing Sale of Property located at 182 Lebanon Street, Springfield, Hampden County, Massachusetts (hereinafter the "Receivership Property") to Satisfy Receiver's Priority Lien (hereinafter the "Receiver's Motion"); and it appearing that notice of the Receiver's Motion was appropriately provided under the circumstances and that no other or further notice is necessary; and after final hearing before this court on June 28, 2013; and upon the entire record of these proceedings; and the Court being sufficiently advised and after due deliberation thereon; and good and sufficient cause appearing therefore:

THE COURT HEREBY FINDS, ORDERS, ADJUDGES AND DECREES THAT:

1. This Court has personal and subject matter jurisdiction over this proceeding and the Receivership Property affected thereby.
2. Home Equity Assets Realty, LLC (hereinafter the "Receiver") acknowledges and the Court finds that Carmen Rivera is indebted to Bank of America, N.A. under a promissory note which is secured by valid, enforceable, perfected and non-avoidable first mortgage on the Receivership Property which is recorded in the Hampden County Registry of Deeds in Book 16721, Page 554, subject only to statutory municipal liens and the Receiver's priority lien granted pursuant to M.G.L. c. 111 § 127I.
3. Home Equity Assets Realty, LLC (hereinafter the "Receiver") acknowledges and the Court finds that Carmen Rivera is indebted to Bank of America, N.A. under a promissory note which is secured by valid, enforceable, perfected and non-avoidable second mortgage on the Receivership Property which is recorded in the Hampden County Registry of Deeds in Book 16721, Page 570, subject only to statutory municipal liens and the Receiver's priority lien granted pursuant to M.G.L. c. 111 § 127I.
4. Home Equity Assets Realty, LLC (hereinafter the "Receiver") acknowledges and the Court finds that Carmen Rivera is indebted to HAP, Inc. under a promissory note which is secured by valid, enforceable, perfected and non-avoidable mortgage on the Receivership Property which is recorded in the Hampden County Registry of Deeds in Book 18614, Page 152, subject only to statutory municipal liens and the Receiver's priority lien granted pursuant to M.G.L. c. 111 § 127I.
5. There exists insufficient income potential, including revenue from rents, to repay the Receiver in a reasonable period of time for the cost of rehabilitating the Receivership Property. Accordingly, an immediate need exists for the Receiver to sell the Receivership Property to satisfy its priority lien.

6. The Receiver is hereby authorized to sell the Receivership Property to satisfy its priority lien, subject to the following procedure:
  - A. The Receiver shall prepare a Notice of Sale which shall indicate the following:
    - a. the street address and legal description of the property to be offered for sale by public auction;
    - b. the name of the titled owner(s) of the property;
    - c. the date, time and place of the sale; and
    - d. that the Western Division Housing Court has granted the Receiver authorization to sell the property to satisfy its priority lien under M.G.L. c. 111, § 127I.
  - B. The Receiver shall serve the Notice of Sale on all owners and/or holder(s) of equity of redemption and all other parties having an interest in the real estate, including lenders, mortgagees and lien holders, as of thirty (30) days prior to the date of sale by certified mail, return receipt requested, at least fourteen (14) days prior to the date of sale.
  - C. The Receiver shall engage a duly licensed auctioneer to conduct the public auction. The property shall be sold to the highest bidder. The Receiver reserves the right to reject all bids.
  - D. The Receiver shall arrange for publication of the Notice of Sale. The Notice must be published once a week for three (3) successive weeks in The Republican, a newspaper of general circulation in the City of Springfield, the first publication being no later than twenty-one (21) days prior to the sale. The Receiver shall collect tear sheets of the newspaper advertisements to be filed with the Court.
  - E. The Receiver shall prepare a Memorandum of Sale.
  - F. The Receiver shall execute the Memorandum of Sale with the prospective purchaser after completion of public auction sale.

G. The sale shall be subject to approval by the Court.

H. The sale shall be subject to the receivership and the prospective new owner shall be subject to approval by the Court under the terms of the receivership order.

7. The Receiver, nor any principal, officer or owner thereof, shall not be prohibited from purchasing the Receivership Property, provided they are the high bidder at public auction.

So entered this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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Hon.