

COMMONWEALTH OF MASSACHUSETTS

WESTERN DIVISION, SS.

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

CITY OF SPRINGFIELD
CODE ENFORCEMENT DEPARTMENT
HOUSING DIVISION,

Plaintiff

v.

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

182 Lebanon Street, Springfield, MA

**RECEIVER'S MOTION TO ENFORCE PRIORITY LIEN
AND OBTAIN ORDER AUTHORIZING SALE OF
PROPERTY LOCATED AT 182 LEBANON STREET, SPRINGFIELD, MA
TO SATISFY RECEIVER'S PRIORITY LIEN**

Pursuant to the Court's Order on Petition to Enforce the State Sanitary Code and M.G.L. c. 111, § 127I, Home Equity Assets Realty, LLC, as Receiver brings this motion to enforce its priority lien on the receivership property located at 182 Lebanon Street, Springfield, Hampden County, Massachusetts and seeks an order of the court authorizing it to sell the receivership property to satisfy its priority lien.

Due to serious violations of the State Sanitary Code and a documented inability to correct them, in 2013 the Court appointed Home Equity Assets Realty, LLC as Receiver for the property located at 182 Lebanon Street, Springfield, Hampden County, Massachusetts. Home Equity Assets Realty, LLC, as Receiver in conjunction with representatives of the Plaintiff conducted inspections of the receivership property to determine necessary emergency repairs, and identified major issues

that need to be repaired at the receivership property. The Receiver filed and this Court approved a Rehabilitation Plan for the property. In accordance with the Court approved Rehabilitation Plan, the Receiver has incurred significant expense, as outlined in its reports to the Court, to rehabilitate the receivership property.

The Receiver currently believes that there is insufficient income potential from monthly rents to reimburse the Receiver within a reasonable time frame for the expense of rehabilitating the receivership property.

For these reasons, the Receiver respectfully requests the Court to enforce its priority lien pursuant to M.G.L. c. 111 § 127I and authorize the Receiver to sell the receivership property to satisfy its priority lien.

The Receiver,
Home Equity Assets Realty, LLC,
By Its Attorney,

Date:

Christopher C. Johnson, BBO#548416
Johnson, Sclafani & Moriarty
776 Westfield Street
West Springfield, MA 01089
(413) 732-8356 - telephone
(413) 439-0480 - facsimile

NOTICE OF HEARING

Please be advised that the undersigned shall bring the Receiver's Motion To Enforce Priority Lien before the Hampden County Housing Court on _____ at _____ .M. or as soon thereafter as Counsel may be heard.

Date:

Christopher C. Johnson

CERTIFICATE OF SERVICE

I, Christopher C. Johnson, counsel for Home Equity Assets Realty, LLC, the Receiver hereby certify that on this ____ day of _____, I served a copy of the foregoing Receiver's Motion to Enforce Priority Lien to the following via first class mail, postage prepaid:

1. Lisa C. deSousa, Esq., Associate City Solicitor, City of Springfield Law Department, 95 State Street, 6th floor, Springfield, MA 01103;
2. Bank of America, NA, to its attorney of record, Lori K. Vaulding, Esq., Houser & Allison, 45 School Street, 3rd Floor, Boston, MA 02108; and
3. HAP, Inc., 322 Main Street, Springfield, MA 01105; and
4. Carmen Rivera, 18 Mattoon Street, Apt 3R, Springfield, MA 01105.

Date:

Christopher C. Johnson