

MEMORANDUM

TO: City of Beacon City Council
FROM: Nicholas M. Ward-Willis
RE: 6 State Street
DATE: January 22, 2018

In 2016 the City of Beacon acquired title to the single family home located at 6 State Street. The City listed it for sale on a multiple listing service with a real estate broker and received and approved an offer to convey the house to Barry Sewing. The house was conveyed on February 14, 2017 along with the City's standard terms and conditions including the unit remain owner occupied for five years. At the time the property was sold it was understood that Mr. Sewing was purchasing it for his daughter and he may later on request title be transferred from him to his daughter.

As per the attached letter Mr. Sewing has now made that request to the City Administrator (as authorized under the terms and conditions of the Contract approved by the City Council to approve the property being conveyed to "an approved transferee" which Mr. Sewing's daughter and her husband are). Thus, no action is required by the City Council with respect to transferring the property from Mr. Sewing to his daughter. However, Mr. Supple's attached letter indicates that Ms. Sewing and her husband will be obtaining a loan and the lender is requesting the City's right of reversion be subordinated to the lender's mortgage. In essence, the lender wants guarantee that should it foreclose on the mortgage and take title to the property, and sell it, that the purchaser will not be subject to the City's requirement the unit be owner occupied. The City has previously granted requests to subordinate its rights of reversions on prior properties in recognition that a commercial lender will not lend on properties where its mortgage rights could be subverted by the City's right of reversion.

Accordingly, this matter is on for the City Council's workshop agenda for discussion. Please let me know should you have any questions.

SUBORDINATION AGREEMENT

AGREEMENT, made the _____ day of January, 2018 between The City of Beacon with an address of One Municipal Plaza, Beacon, New York 12508, hereinafter designated as ("The City") and PrimeLending, A PlainsCapital Company, with an address of 18111 Preston Road, Suite 900, Dallas, Texas 75252, hereinafter designated as ("Prime"):

WHEREAS, The City now is the beneficiary of restrictive covenants as reserved in the following deed: Anthony Reggiero, City Administrator of the City of Beacon to Barry Sewing dated February 14, 2017 and recorded in the Dutchess County Clerk's Office in Document No. 02-2017-1259 on February 16, 2017.

WHEREAS, Brittany Sewing and Max DeFrancisco, the Contract Vendees of the premises from Barry Sewing are about to purchase the premises and to execute and deliver a mortgage for the sum of \$150,000.00 and interest, and covering premises located at 6 State Street, Beacon, New York 12508, County of Dutchess, State of New York, and more fully described in Schedule A hereto; and

WHEREAS, Prime has refused to accept the mortgage unless the restrictive covenants held by The City be subordinated in the manner hereinafter mentioned

WHEREAS, The City is willing to subordinate the restrictive covenants to the provisions of the mortgage in order to facilitate execution of the mortgage;

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound hereby The City agrees as follows:

1. The City's rights, interests, claims and remedies under the restrictive covenants subordinate to the rights of the mortgage holder to enforce the terms of the mortgage with the same force and effect as if the mortgage had been executed and recorded prior to the execution and recording of the deed reserving the restrictive covenants.
2. The City agrees that in the event of a foreclosure of the Mortgage or a transfer in lieu of foreclosure of any portion of the property, the purchaser at any such foreclosure or the transferee under any deed in lieu of foreclosure shall take title to the property free from such restrictive covenants,
3. This Agreement shall be binding upon and inure to the benefit of Prime and their successors and assigns until said Mortgage is paid off or satisfied or until such restrictive covenants have expired.
4. This Agreement may not be amended or modified except by an instrument in writing agreed to by Prime and The City.

5. This Agreement shall be construed and enforced in accordance with the laws of New York.

IN WITNESS WHEREOF, the said City of Beacon has duly executed this Agreement the day and year above first written.

IN PRESENCE OF:

STATE OF NEW YORK)
COUNTY OF DUTCHESS) ss.:
_____)

On the _____ day of _____, 2018, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he executed the same in his capacity(ies), and that by his signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(signature and office of individual taking acknowledgment)

R&R:

Paul B. Supple, Esq.
Lyons & Supple, Esqs.
5 Cliff Street
P.O. Box 227
Beacon, NY 12508

BRITTANY SEWING & MAX DeFRANCISCO

**6 State Street
Beacon, New York 12508**

January 15, 2018

Re: 6 State Street, Beacon, New York

To Whom it May Concern:


This will serve to advise that my father, Barry Sewing purchased the above-noted property on our behalf to help us renovate same. Now that the house has been renovated we would like to be able to repay my father, Barry Sewing. In order to accomplish that the Bank requires the property to be transferred into our name to obtain financing.

I was born and raised in Beacon and would love to have the opportunity to do the same for our daughter. We already occupy the premises and plan to so as our residence for a long time to come. I am a stay at home mom and my husband works locally as Customer Service Parts Representative for Orange County BMW.

As always, should you have any questions or require anything additional please contact me.

Very truly yours,


BRITTANY SEWING


MAX DeFRANCISCO

5102.45
RW VI
#37

LYONS & SUPPLE

Counselors at Law
5 Cliff Street
P.O. Box 227
Beacon, New York 12508-0227

(845) 831-1234
Fax (845) 831-2268

John L. Supple
Gregory D. Supple *
Paul B. Supple

*NY & CAL BAR
James J. Lyons, Retired

Wappingers Falls Office
92 E. Main St., P.O. Box 46
Wappingers Falls, N.Y. 12590-0046
(845) 297-0600
(845) 297-8877

() Wappingers
Please reply to: (x) Beacon

January 9, 2018

Nicholas Ward-Willis, Esq.
Keane & Beane, P.C.
445 Hamilton Avenue
Suite 1500
White Plains, NY 10601

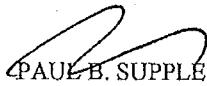
RE: Barry Sewing from City of Beacon
Property: 6 State Street, Beacon, NY 12508

Dear Mr. Ward-Willis:

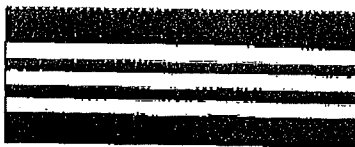
Enclosed herewith please find a copy of the Deed to Barry Sewing in regard to the above-noted transaction. Per our discussion Barry Sewing purchased the above-noted property for his daughter and son-in-law. Brittany and her husband are trying to obtain financing from PrimeLending for \$150,000.00. I am enclosing a copy of paragraph 8 of Schedule B - Terms and Conditions Sale which discloses a restriction on transfers. We believe that Brittany is an "Approved Transferee" under such conditions. We therefore ask permission to convey the property to Brittany and her husband, Max DeFrancisco. To enable Brittany and her husband to obtain financing we need an approval for the transfer as well as a Subordination City Restrictions to PrimeLending.

As always, should you have any questions or require anything additional please do not hesitate to contact this office.

Very truly yours,


PAUL B. SUPPLE
PBS:fin
Enc.

Via email



Dutchess County Clerk Recording Page

Record & Return To:

Date Recorded: 2/16/2017
Time Recorded: 3:34 PM

LYONS & SUPPLE
5 CLIFF ST

Document #: 02 2017 1259

BEACON, NY 12508

Received From: RG AGENCY

Grantor: BEACON CITY
Grantee: SEWING BARRY

Recorded In: Deed
Instrument Type:

Tax District: City of Beacon

Examined and Charged As Follows :

Recording Charge: \$205.00
Transfer Tax Amount: \$260.00
Includes Mansion Tax: \$0.00
Transfer Tax Number: 4724

Number of Pages: 7

*** Do Not Detach This Page
*** This is Not A Bill

Red Hook Transfer Tax:

RP5217: Y
TP-584: Y

County Clerk By: cca
Receipt #: 5638
Batch Record: 33

Bradford Kendall
County Clerk



0220171259



QUITCLAIM DEED

(INDIVIDUAL OR CORPORATION)
FORM 8009

ckb 75-
130
200
465

CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY
ATTORNEYS FOR SELLER AND PURCHASER BEFORE SIGNING.

THIS INDENTURE, made the 14th day of February, 2017

between

ANTHONY RUGGIERO, City Administrator of the City of Beacon, a Municipal
Corporation, having its offices at One Municipal Plaza, Suite One, Beacon, New York 12508 ✓

party of the first part, and

Barry Sewing
~~BRITANNY SEWING and MAX DEFRANCISCO~~; residing at 44 Talbot Avenue, Beacon, New
York 12508 ✓

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten dollars (10.00), lawful
money of the United States, paid by the party of the second part, does hereby remise, release and
quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second
part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, ✓
situate, lying and being in the City of Beacon, County of Dutchess and State of New York, more
particularly described in Schedule "A" attached hereto.

SUBJECT to Terms and Conditions of Sale annexed hereto as Schedule "B" and made a part
hereof.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any
streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in
and to said premises, *TO HAVE AND TO HOLD* the premises herein granted unto the party of the
second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the
party of the first part will receive the consideration for this conveyance and will hold the right to receive
such consideration as a trust fund to be applied first for the purpose of paying the costs of the
improvement and will apply the same first to the payment of the cost of the improvement before using
any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so
requires.

Title No. RGD 21193

Schedule A
(description)

All that certain piece, plot or parcel of land situate lying and being in the CITY OF BEACON, ✓
COUNTY OF DUTCHESS, State of New York, known and designated as Lot No. 18 on the
northeasterly side of State Street, as shown on a certain map entitled, "Map of Section C,
Meconto Estate" made by W. R. Scofield, C.E., dated July 30, 1921 and filed in the
Dutchess County Clerk's Office as Map No. 1221 bounded and described as follows:

BEGINNING at a point in the easterly line of State Street, said point being a capped iron rod
found at the northwesterly corner of Lot No. 17, as shown on the said map;

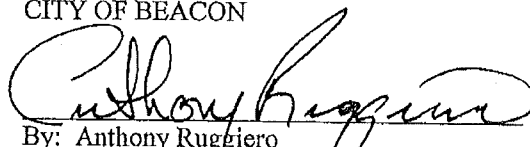
THENCE along the said easterly line of State Street North $31^{\circ} 55' 00''$ West 40.00 feet to a
point;

THENCE along the southerly and westerly lines of lands now or formerly CMP Acquisition
Corp. (Liber 1939, cp 145) the following two courses: North $57^{\circ} 40' 00''$ East 100.00 feet to a
concrete monument found and South $31^{\circ} 55' 00''$ East 40.00 feet to a point;

THENCE along the northerly line of the said Lot No. 17 South $57^{\circ} 40' 00''$ West 100.00 feet
to the point or place of BEGINNING.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

CITY OF BEACON


By: Anthony Ruggiero
Title: City Administrator

STATE OF NEW YORK

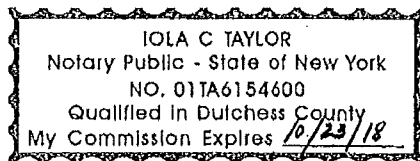
)

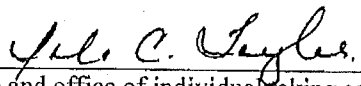
) ss.:

COUNTY OF DUTCHESS

)

On the 14th day of February, 2017, before me, the undersigned, personally appeared ANTHONY RUGGIERO personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity, and that by his/her/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.




(signature and office of individual taking acknowledgment)

Quitclaim Deed

Grid No: 6055-72-498198

Return By Mail To:

Paul B. Supple, Esq.
Lyons & Supple
5 Cliff Street
Beacon, New York 12508

RECORDED AT REQUEST
OF RG AGENCY
PO BOX 431
PEEKSKILL, NY 10566
914-739-2700
RETURN BY MAIL TO

RbD21193

Schedule B – Terms and Conditions of Sale

I. Condition of Property

1. All Property is sold in an "AS IS" condition and the Seller makes no representation, express or implied, as to the condition of the Property, warranty of title, or suitability for a particular use.
2. The Property is sold subject to: (1) any facts a survey or inspection of the Property would disclose; (2) applicable zoning/land use/building regulations/easements of record; (3) federal or state taxes, liens, and judgments which may not have been extinguished from land by foreclosure proceedings; (4) easements, covenants, conditions, and rights-of-way of record.
3. The Property will NOT be delivered at Closing "broom clean" and Seller shall have no obligation to remove any personal property present on the Property and Purchaser shall be responsible to remove any personal property or debris.
4. The Purchaser acknowledges that the second floor attic space in the Property was converted to unauthorized habitable space by a prior owner and agrees not to use the second floor attic as habitable space without first obtaining the proper authorization from the City of Beacon Building Department.
5. Except as specifically provided for in this Contract, the Seller makes no representation and gives no warranties as to the environmental conditions of the Property.
 - a. For the purposes of these conditions, "Environmental Laws" mean Federal, State and local laws and regulations, common law, orders, and permits governing the protection of the environment, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq. as amended (CERCLA); the Resource Conservation and Recovery Act, as amended 42 U.S.C. 6901, et seq.; the Clean Water Act, 33 U.S.C. 1251, et seq.; the Clean Air Act, 42, U.S.C. 7401, et seq.; the Toxic Substance Control Act, 15 U.S.C. 300f through 300j; et seq. and any amendments thereto together with any other similar laws regulating the environment existing at the time or coming into existence in the future.
 - b. Purchaser acknowledges that it is taking the Property subject to all environmental conditions existing at the Property.
 - c. Purchaser agrees to indemnify, defend, and hold harmless the Seller from all liability for any claims relating to any contamination, or violations of any Environmental Laws, as defined above regardless of whether relating to conditions existing prior to or following Closing, including reasonable attorneys' fees.
 - d. The representatives and warranties contained in this Paragraph shall survive Closing.

II. Post-Closing Obligations

6. Within 14 days of the Closing, the Property shall be secured and the Property shall comply with Sections 107.2, 302, 303 and 307 of the Property Maintenance Code of the State of New York and Chapter 92 of the City of Beacon Code
7. The Purchaser shall be responsible upon delivery of the Deed for securing all vacant property pending rehabilitation. The building(s) shall be boarded or otherwise secured to prevent unauthorized entry or use.
8. The City acquired the Property in an In Rem tax foreclosure proceeding and selected Purchaser on the basis of Purchaser's assurance that the Property would remain owner-occupied for no less than five (5) years and not leased. The City relied on this assurance which furthers the City's policy of maintaining a stabilized housing stock and promoting homeownership. Therefore, the Property is being sold upon the condition that the Property will be exclusively occupied by the Purchaser or an Approved Transferee (as hereinafter defined) within nine (9) months of the Closing and such exclusive occupancy shall continue for a period of five (5) years from the date of Closing (the "Exclusive Occupancy Period"). During the Exclusive Occupancy Period, the Property shall not be permitted to be sold or transferred except to an Approved Transferee and the Property, either in whole or in part, shall not be permitted to be leased. An "Approved Transferee" is an individual or individuals who have provided adequate assurances to the City Administrator that they intend to utilize the Property as an owner-occupied residence for such individual or individuals themselves and the City Administrator has granted its written approval designating such individual or individuals as Approved Transferees, such approval not to be unreasonably withheld. The deed shall contain language to this effect.
9. The Property shall be sold subject to these Post-Closing Obligations and compliance with those conditions within the timeframes, as outlined herein. These Post-Closing Obligations are covenants that shall run with the land and be binding to the fullest extent permitted by law and in equity. These Post-Closing Obligations shall inure to the Benefit of the City and shall be enforceable against Purchaser and its successors and assigns. If such specific conditions are not satisfied within the specified times outlined herein, the property shall revert to the City, free and clear of any and all claims, encumbrances or other liens. This possibility of reverter shall be set forth in the Deed and shall be binding upon any successor owner of the Property until such time as all conditions have been satisfied.
10. If Purchaser fails to comply with any of the conditions set forth in these Post-Closing Obligations, the City shall provide Purchaser a Notice of Failure to Comply with Conditions of Sale. Purchaser shall have thirty (30) days after receipt of such Notice to comply. If Purchaser has failed to correct the condition that is set forth in the Notice by the end of thirty (30) days or as such time as may be extended in writing by the City, the City Council and City of Beacon shall at its regularly scheduled meeting, adopt a Resolution declaring Purchaser to be in default. Purchaser agrees that upon receipt of a certified copy of the Resolution adopted by the City Council declaring Purchaser to be in default of these Conditions of Sale, Purchaser shall, within ten (10) days execute a deed conveying the property to the City at no cost. In the event Purchaser fails to execute the deed, the City shall have the right to commence an action in Supreme Court, Dutchess County compelling

Purchaser to execute the deed and convey the property to the City. Purchaser shall be responsible for all legal fees and expenses incurred by the City in preparing the Notice, Resolution and costs associated with any litigation. Once the conditions set forth in these Conditions of Sale have been fulfilled, Purchaser may request a waiver of reversionary interest from Seller and Purchaser shall pay Seller's attorneys \$500 for preparation of such waiver

III. Miscellaneous Matters

11. Purchaser may order title from any title insurance company licensed in the State of New York but any encumbrance to which title is not to be subject shall not be an objection to title if RG Agency Title Insurance, having an address at P.O. Box 431, 1000 N. Division St., Peekskill, New York 10566, phone number (914) 739-2700, email: rgagency@optonline.net, (or such other title insurance company as Seller shall designate), is or would be willing, in a fee policy issue by it to Purchaser without any additional cost or expense to Purchaser, to insure Purchaser that it will not be collected out of the Property if it is a lien or will not be enforced against the Property if it is not a lien.
12. All sales shall be final and without recourse, and in no event shall the Seller be liable for any defects in title for any cause whatsoever. No claim, demand or suit of any nature shall exist in favor of the Purchaser, his/her heirs, successors or assigns, against the Seller arising from this sale. The acceptance of the Deed by Purchaser shall be deemed full performance and discharge of every agreement and obligation on the part of Seller to be performed, except those, if any, which are herein specifically stated to survive the delivery of the Deed
13. Purchaser is aware that the Seller acquired the subject Property pursuant to an In Rem tax foreclosure proceeding and it is the intent of the Seller to have the Property restored to the Tax Roll. In the event that the Property is not presently on the Assessment Roll and assessed real property taxes, Purchaser agrees to pay its proportionate share of city, county and school taxes at Closing in an amount equal to that which it would have been apportioned if the Property were on the City's Assessment Roll. If the Property is not listed on the Assessment Roll (or will not be listed when the Assessment Roll is next published), Purchaser shall make no objection to the Property being restored to the Assessment Roll and the Property being assessed omitted taxes, which shall be Purchaser's obligation to pay. In no event shall the Seller be responsible for the payment of any property taxes.

5. If (a) Escrow Agent shall have received a notice of objection as provided for in paragraph 4 within the time therein prescribed or (b) any other disagreement or dispute shall arise between the parties or any other persons resulting in adverse claims and demands being made for the Deposit, whether or not litigation has been instituted, then and in any such event, Escrow Agent shall refuse to comply with any claims or demands on it, and shall continue to hold the Deposit until Escrow Agent receives either (x) a written notice signed by both parties directing the disbursement of the Deposit, or (y) a final non-appealable order of a court of competent jurisdiction, entered in an action, suit or proceeding in which Seller and Purchaser are parties, directing the disbursement of the Deposit, in either of which events Escrow Agent shall then disburse the Deposit, in accordance with such direction. Escrow Agent shall not be or become liable in any way or to any person for its refusal to comply with any such claims and demands unless and until it has received such direction. Upon compliance with such direction, Escrow Agent shall be released of and from all liability hereunder.

6. Notwithstanding the foregoing, Escrow Agent shall have the following rights in the circumstances described in clause (a) or (b) of paragraph 5:

(a) If Escrow Agent shall have received a notice signed by either party advising that a litigation between the parties over entitlement to the Deposit has been commenced, Escrow Agent may, on notice to the parties, deposit the Deposit with the clerk of the court in which such litigation is pending; or

(b) Escrow Agent may, on notice to the parties, take such affirmative steps as it may, at its option, elect in order to terminate its duties as Escrow Agent, including, but not limited to, the deposit of the Deposit with a court of competent jurisdiction and the commencement of an action for interpleader, the reasonable costs of which shall be borne by whichever of the parties is the losing party. Upon the taking by Escrow Agent of the action described in clause (a) or (b) of this paragraph 6, Escrow Agent shall be released of and from all liability hereunder.

7. Seller and Purchaser shall jointly and severally hold harmless and indemnify Escrow Agent from and against any and all costs, expenses and liabilities (including, without limitation, reasonable attorneys' fees and disbursements) resulting from or incurred in connection with the performance of Escrow Agent's duties hereunder or any dispute arising under this Agreement, except for Escrow Agent's gross negligence or willful misconduct, and except that, as between Seller and Purchaser, the loser of any dispute over entitlement to the Deposit shall bear the costs and expenses of Escrow Agent in connection therewith. With respect to the foregoing indemnity, reasonable attorneys' fees shall include, but not be limited to, the fair value of legal services, if any, rendered by Escrow Agent to itself. Escrow Agent is acting hereunder as a depository only and is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of any instrument deposited with it or for any notice or demand given to it or for the form of execution of such instrument, notice or demand, or for the identification, authority or rights of any person executing, depositing or giving the same or for the terms and conditions of any instrument, pursuant to which the parties may act.

8. Escrow Agent shall not have any duties or responsibilities, except those set forth in this Exhibit and shall not incur any liability (a) in acting upon any signature, notice, demand, request, waiver, consent, receipt or other paper or document believed by Escrow Agent to be genuine and Escrow Agent may assume that any person purporting to give it any notice on behalf of

any party in accordance with the provisions hereof has been duly authorized to do so, or (b) in otherwise acting or failing to act under this Exhibit except in the case of Escrow Agent's gross negligence or willful misconduct. Escrow Agent shall not be responsible for any interest on the Deposit except as is actually earned, or for the loss of any interest resulting from the withdrawal of the Deposit prior to the date interest is posted thereon or for any loss caused by the failure, suspension, bankruptcy or dissolution of the institution in which the Deposit is deposited.

9. Seller and Purchaser acknowledge that Escrow Agent is acting solely as stakeholder at the request of Seller and Purchaser and for their convenience, that Escrow Agent shall not be deemed to be the agent of either of the parties, and that Escrow Agent shall not be liable to either of the parties, except for its gross negligence or willful misconduct.

10. Purchaser acknowledges and agrees that Escrow Agent may represent Seller in the transaction contemplated by this Agreement and in any dispute arising hereunder.

11. Escrow Agent may act or refrain from acting in respect of any matter referred to in this Exhibit in full reliance upon, and with the advice of, counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

12. Escrow Agent may resign upon ten (10) days written notice to Seller and Purchaser for any reason or no reason at all. Upon such event, if Seller and Purchaser do not jointly approve of and appoint a successor to Escrow Agent within such ten (10) day period by delivering notice thereof to Escrow Agent, Escrow Agent may petition a court of competent jurisdiction to name a successor. Upon joint approval and appointment of a successor to Escrow Agent by Seller and Purchaser, Escrow Agent shall promptly deliver the Deposit to such successor.

13. The provisions of this Exhibit shall survive the termination of this Agreement.