

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

COMERICA BANK,
a Texas banking association,

CASE NO. 11-028447 (03)

Plaintiff,

vs.

OCEAN 4660, LLC a Florida limited liability company, OCEANSIDE LAUDERDALE, INC., a Florida corporation, KENNETH A. FRANK, individually, ANGELA DIPILATO, individually, TOWN OF LAUDERDALE-BY-THE-SEA, a political subdivision of the State of Florida, WASTE MANAGEMENT INC. OF FLORIDA d/b/a SOUTHERN SANITATION SERVICE, a Florida corporation, AFFINITY MECHANICAL INC., a Florida corporation, and BROWARD COUNTY, a political subdivision of the State of Florida,

Defendants.

**PLAINTIFF'S MOTION TO EXPEDITE HEARING ON MOTION FOR
APPOINTMENT OF A RECEIVER FOR A LIMITED PURPOSE**

Plaintiff, Comerica Bank ("Plaintiff"), hereby moves this Court for an order that expedites the setting of Plaintiff's Motion for Appointment of a Receiver for a Limited Purpose ("Motion for Appointment of a Receiver") for a date earlier than April 29, 2013. In support of this Motion, Plaintiff states as follows:

1. Plaintiff's Motion for Appointment of a Receiver was filed on June 20, 2012 and was originally set for hearing on September 11, 2012 at 11:15 a.m. for a 15 minute hearing.
2. The September 11, 2012 hearing went forward and this Court heard argument from both Plaintiff's counsel and counsel for Ocean 4660, LLC ("Ocean 4660").

3. The Court, however, did not rule on the merits of Plaintiff's Motion for Appointment of a Receiver and entered an order directing the parties to set Plaintiff's Motion for Appointment of a Receiver for an evidentiary hearing. A true and correct copy of this Court's order is attached as **Exhibit "A."**

4. The earliest date the Parties were able to secure for an evidentiary hearing was April 29, 2013 at 1:30 P.M, which is over seven months after the first hearing.

5. An expedited hearing is required because, as articulated in Plaintiff's Motion for Appointment of a Receiver, Plaintiff's security interest in real and personal property known as the "Lauderdale Beachside Hotel"¹ is at risk of being impaired.

6. Additionally, adjacent to the Lauderdale Beachside Hotel is a parking lot that is essential to the operation of the Lauderdale Beachside Hotel (the "Parking Lot"). Ocean 4660 has a leasehold interest for use of the Parking Lot (the "Ground Lease.").

7. Ocean 4660 granted a security interest to Plaintiff over Ocean 4660's leasehold interest in Parking Lot.

8. Pursuant to the Ground Lease, Ocean 4660 is required to make an annual \$20,000 payment to the landlord of the Ground Lease and also to pay the real property taxes relating to the Parking Lot.

9. If Ocean 4660 defaults under the Ground Lease, then it would impair access to the Parking Lot, which would impair the ability to run the Lauderdale Beachside Hotel. Because Plaintiff cannot communicate directly with Ocean 4660's landlord, however, Plaintiff has no assurances that these lease payments are being made and that its security interest is protected.

¹ The Mortgage (as defined in the Second Amended Complaint) and a separate security agreement executed by Ocean 4660 grant Plaintiff a lien on the real and personal property located at 4660 N. Ocean Drive, Lauderdale by the Sea, Florida 33308 ("Ocean 4660 Property"). The Ocean 4660 Property is the location of a hotel known as the Lauderdale Beachside Hotel.

10. Regarding the real property taxes, the Broward County tax records indicate that the real property taxes associated with the Ground Lease for the years 2011 and 2012 remain unpaid.

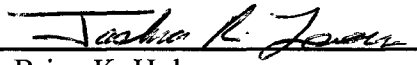
WHEREFORE, Plaintiff respectfully requests that this Court: grant this motion; expedite the hearing date on its Motion for Appointment of a Receiver; and grant any other relief this Court deems necessary and equitable.

Dated: January 4, 2013.

Respectfully Submitted,


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CERTIFICATE OF SERVICE

I hereby certify that on **January 4, 2013**, a true and correct copy of the foregoing was served on all parties on the Service List below in the manner specified.


Joshua R. Levenson
Fla. Bar No. 0056208

SERVICE LIST

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<p>Charmaine J. Comprosky, Esq. Law Office of Charmaine J. Comprosky, P.A. 2310 East Atlantic Boulevard, Suite 204 Pompano Beach, Florida 33062 E-mail: law@comprosky.com <i>Counsel for Oceanside Lauderdale, Inc.</i> [Via E-mail]</p>	<p>Kenneth A. Frank, <i>Pro Se</i> 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 E-mail: kenknaassociates@gmail.com [Via U.S. Mail, facsimile and E-mail]</p>
<p>Oceanside Lauderdale, Inc. 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 [Via U.S. Mail]</p>	<p>Angela Dipilato 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 [Via U.S. Mail]</p>
<p>Waste Management Inc. of Florida d/b/a Southern Sanitation Service c/o Registered Agent, CT Corporation System 1200 South Pine Island Road Plantation, FL 33324 [Via U.S. Mail]</p>	<p>Angela Dipilato 1323 S.E. 3rd Avenue Pompano Beach, FL 33060 [Via U.S. Mail]</p>

Affinity Mechanical Inc. c/o Edward J. Bender, Registered Agent 2805 E. Oakland Park Boulevard, #144 Fort Lauderdale, FL 33306 Phone: (954) 332-8363 Fax: (954) 688-2524 [Via U.S. Mail]	Rose Portelli 5915 Park Drive Margate, FL 33063 [Via U.S. Mail]
Motion Elevator, Inc. c/o Registered Agent, Rose Portelli 5915 Park Drive Margate, FL 33063 [Via U.S. Mail]	Michal Holovka 1261 S.E. 7th Avenue Pompano Beach, FL 33060 [Via U.S. Mail]
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liability company, et al.,

Defendants.

**ORDER ON PLAINTIFF'S MOTION FOR
APPOINTMENT OF RECEIVER FOR A LIMITED PURPOSE**

THIS MATTER came before the Court on September 11, 2012 upon Plaintiff
COMERICA BANK's Motion for Appointment of Receiver for a Limited Purpose (the
"Motion") and the Court has heard argument of counsel and is fully advised in the premises.

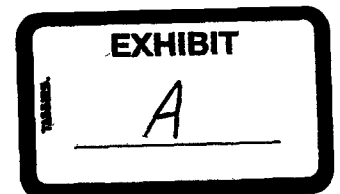
Accordingly, it is **ORDERED and ADJUDGED** that the Motion ~~is~~

shall be set for an evidentiary hearing.

DONE AND ORDERED in Chambers, in Broward County, Florida, on this 11th day of
September 2012.

SEP 11 2012
Milly R. Powell
CIRCUIT COURT JUDGE

cc: Service List Attached



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