

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

COMERICA BANK,
a Texas banking association

CASE NO.: 11-28447 03

Plaintiff,

v.

OCEAN 4660, LLC a Florida limited liability company et al,

Defendants.

TOWN OF LAUDERDALE BY THE SEA
ANSWER AND AFFIRMATIVE DEFENSES

Defendant, Town of Lauderdale by the Sea ("Town"), answers the Complaint for Foreclosure ("Complaint") filed by plaintiff, COMERICA BANK, a Texas banking association ("Bank"), and states:

1. As to the allegations contained in paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, and 42 the Town is without knowledge and therefore denies same and demands strict proof thereof at a trial of this cause.

2. The Town admits the allegations contained in paragraphs 7 and 10 of the Complaint.

3. As to paragraph 38, the Town admits that it claims an interest in this matter by virtue of a lien recorded in Official Records Book 47521 at Page 1395 of the Public Records of Broward County, Florida, and denies all remaining allegations contained in paragraph 38. In addition, the Town asserts that it may claim additional interests not specifically alleged in the Complaint.

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4. Any allegation not specifically admitted herein is denied.

AFFIRMATIVE DEFENSES

5. As its first affirmative defense, the Town states that Bank cannot foreclose the Town of Lauderdale by the Sea Claim of Liens recorded in 47521 at Page 1395 of the Public Records of Broward County, Florida as such liens, by their terms, and as more specifically set forth in Chapter 15 of the Town Code of Ordinances, Section 15-55, "shall be prior to all other liens on such lands or premises, except the lien of the State, County and municipal taxes, and shall be on a parity with the lien of such State, County and municipal taxes." Accordingly, such liens are superior in dignity to the Bank's mortgage and all other recorded liens on the subject property

6. As its second affirmative defense, the Town states that Bank cannot foreclose Town's interests that are not specifically asserted in the Complaint. Therefore, Bank may not foreclose any water, utility or sanitation liens on property located in the Town pursuant to Section 159.17, Florida Statutes, special assessment liens pursuant to Section 170.09, Florida Statutes, or any other interests that the Town may hold on the property. All Town liens that Bank has failed to specify and allege in the Complaint are superior to the Bank's interest in the subject property and may not be foreclosed herein.

WHEREFORE, the Town demands judgment against Bank, or in the alternative, requests that the Court determine the priority of the various interests in the property and specify in the foreclosure judgment the priority of the Town's right to any excess proceeds that may remain following the sale of the property.


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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing Answer and Affirmative Defenses was furnished by mail this 19th day of December, 2011, to Brian K. Hole, Esq., Holland & Knight LLP, 515 East Las Olas Blvd., Suite 1200, Fort Lauderdale, FL 33301 and by facsimile to (954) 463-2030.

Respectfully submitted,

WEISS SEROTA HELFMAN
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