

FOR IMMEDIATE RELEASE

**MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION
RESOLVES RESTRICTIVE COVENANT CASES**

Boston, MA. January --, 2012. The Massachusetts Commission Against Discrimination (“MCAD”) announced today the resolution of five (5) separate complaints stemming from a newspaper’s publication of a foreclosure notice containing a verbatim recitation of unlawful language, contained in a deed, restricting the transfer of a certain property to persons of the Caucasian race. Massachusetts law forbids racial restrictions in real property instruments; renders void such transfers of property, and bars discriminatory notices and advertisements.

Former Chairman, Malcolm S. Medley initiated a Commission complaint and named as Respondents, the newspaper, New Bedford Standard-Times, foreclosure counsel, Harmon Law Offices P.C., the mortgage servicer, Home Loan Services, Inc., and the trustee for the mortgage holder, US Bank. Complaints filed by the Fair Housing Center of Greater Boston, the New Bedford NAACP, the Charles Hamilton Houston Institute and individually by Mandi Costa, were consolidated with the Commission’s complaint for purposes of resolution.

The Commission’s complaint alleged that on June 6, 2006, a deed was recorded in the Bristol County Registry of Deeds, relating to property located at 115 Cottonwood Street, Fairhaven, Massachusetts. Contained within the deed was a covenant restricting the transfer of the property as to exclude “any person other than of the Caucasian race or to any entity of which any person other than of said race shall be a member, stockholder, officer or director.” The Cottonwood Street property subsequently entered foreclosure. As required by state law, notice of the impending foreclosure must be published in a newspaper servicing the geographical area

of the foreclosed property. On May 17, 2010, a “Notice of Mortgagee’s Sale of Real Estate” appeared in the New Bedford Standard-Times providing notice of a Public Auction for the purpose of foreclosing on the property. The published notice, provided to the newspaper by the bank’s foreclosure counsel, included a verbatim recitation of the racially-restrictive covenant contained in the deed which was first written in the late 1940s or early 1950s. The mortgage servicer Home Loan Services, Inc. and the trustee for the mortgage holder US Bank were not alleged to have had any role in, or knowledge of, the publication of the restrictive covenant.

Since the initiation of the complaint by the MCAD, current Chairman Julian T. Tynes, Commission staff, and the parties, have worked in their varying capacities to remedy the harm caused by the publication of the offensive covenant, to rectify the problem identified in the deed, and to develop a proactive solution to prevent the reoccurrence of the issue in both Massachusetts and nationwide. The MCAD, HUD, the Respondents, and the Complainants, have agreed in a collaborative effort to, among other things,

- design educational materials for the real estate bar informing them of their affirmative obligation to identify and remedy occurrences of restrictive covenants and to provide instruction for the removal of offensive language;
- provide community education on issues of fair housing, researching the overall impact on racially- restrictive covenants, and develop strategies to address potential legislative or administrative avenues of remediation.

The resolution also calls for anti-discrimination training, and the institution of internal policies and procedures to prevent any further reoccurrences.

This settlement is an example of how the MCAD , HUD, Respondents and Complainants were able to collaborate on the development of a remedy that would not only address the

controversy at issue, but also prevent such future events from occurring,” commented Chairman Tynes. “This agreement not only addresses the situation that occurred in Southeastern Massachusetts, but also applies nationwide by establishing affirmative steps for identifying and eliminating racial covenants to ensure such a situation as occurred in Massachusetts does not re-occur in other states. This agreement is an example of what can occur when the principal parties work productively with the Commission on collaborating to develop solutions.”

The Massachusetts Commission Against Discrimination is the state’s chief civil rights agency. The Commission works to eliminate discrimination in the areas of employment, housing, lending, and public accommodation, and strives to advance the civil rights of the citizens of the Commonwealth through law enforcement, outreach, and training. MCAD currently maintains offices in Boston, Worcester, New Bedford and Springfield.

MCAD Chairman Julian Tynes was the Investigating Commissioner. This matter was handled by MCAD General Counsel Catherine Ziehl and Commission Counsel Lynn Milinazzo-Gaudet.

Further information about MCAD and the civil rights laws we enforce is available at www.mass.gov/mcad.

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