



<p>_____</p> <p>Plaintiff: _____ ASSOCIATION, INC.</p> <p>Defendants:</p> <p>_____</p>	<p><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p> <p>_____</p> <p>Case Number:</p> <p>Div.: _____ Ctrm.: _____</p>
<p>(DRAFT) ORDER GRANTING MOTION FOR APPOINTMENT OF RECEIVER</p>	

THIS MATTER having come before this Court on Plaintiff’s Verified Motion for *Ex Parte* Appointment of Receiver pursuant to C.R.C.P. 66 and C.R.S. §38-33.3-101, and being fully advised in the premises hereby finds that:

A. This Court has jurisdiction over the real Property known as _____ which is the subject matter of this action, and over the parties hereto and is legally described as follows:

(LEGAL DESCRIPTION HERE)
, County of _____, State of Colorado.(the “Property”)

B. The allegations set forth in the Complaint and Motion are true and Plaintiff has established a prima facie right, pursuant to its lien and Colorado law establishing a right to the appointment of a Receiver and the Relief requested to take possession and control over the Property, to preserve and protect the Property, and collect rents to be applied towards all unpaid assessments, interest, late charges, fines, attorney fees and costs due to the Association.

C. The Plaintiff, by virtue of the Declaration and its lien has established a right and interest in the Property.

D. The Property is inadequate security for the assessment obligation of Defendant _____ (the “Defendant”) to Plaintiff.

E. The appointment of a Receiver for the Property is reasonable and necessary for the protection and preservation of the Property and to prevent waste. Based on the standards set forth in C.R.C.P. 66 and C.R.S. §38-33.3-101 et seq., and based on legal and factual arguments of the Plaintiff, as set forth in the Motion, the Plaintiff is entitled to entry of this Order.

F. Ryan Gulick of The Receiver Group, LLC is a suitable Receiver for this Property.

IT IS THEREFORE ORDERED THAT:

1. Ryan Gulick, of The Receiver Group, LLC, whose business address is 3800 Buchtel Blvd. #101343, Denver CO 80250, is hereby appointed Receiver for the Property and shall forthwith take physical possession of, manage and operate and protect the Property, which such appointment to become automatically effective.

2. The proposed Bond for said Receiver in the amount of \$_____ is hereby accepted by the Court. Upon filing and approval of the necessary Oath, the Receiver shall, unless otherwise ordered by this Court, have all the powers and authority usually held by Receivers and reasonable necessary to accomplish the purposes herein stated, including, but not limited to the following powers, which may be executed by the Receiver without further order of this Court, except as otherwise provided herein:

IT IS THEREFORE ORDERED:

A. Notice of Receivership. Plaintiff shall give notice of the appointment of the Receiver by providing a copy of the Order to the Defendant, as provided in C.R.C.P. 4 and/or C.R.C.P. 5. Pursuant to C. R.C.P. 66(d)(3), the Receiver shall provide written notice of the action to any persons in possession of the Property affected by this Order.

B. The Receivership Estate. The Receivership Estate shall consist of the Property. The receivership estate includes the Property, along with, including by way of example and not limitation, all rents, goods fixtures, materials, supplies, computers, software and electronic data, equipment, accounts, contract rights, rents, revenues, general intangibles and payment intangibles, bank deposits, investment accounts, security deposits, interests in escrowed funds, certificates and licenses, building permits, and property entitlements, plans and specifications, engineering reports and inspection reports, any and all intangibles rights associated with the Property such as intellectual property and development rights, all proceeds from any property, and any and all records and other documents in whatever media that relate to the Property (“Receivership Estate”).

The Receiver’s possession of the Receivership Estate shall be exclusive of any interest of any Defendant and of any person with any legal or beneficial interest in the Property or the Receivership Estate, and of all persons acting in concert or participation with them. All debts, liabilities and obligations incurred by the Receiver in the course of this receivership, including the operation or management of the Property, or the Receivership Estate, shall be the debt, liability and obligation of the Receivership Estate only and not a personal liability of the Receiver or any employee or agent of the Receiver. Nevertheless, to the extent the Receiver advances sums of money in furtherance of the Receivership Estate, Plaintiff may include such sums and the Receiver’s fees as amounts due and owing under the Plaintiff’s lien referenced in the Complaint.

C. Receiver's Power and Authority: The Receiver shall have the power and authority usually held by Receivers and reasonably necessary to accomplish the purpose herein stated, including but not limited to the following powers which may be executed by the Receiver without further order from this Court:

1. To obtain the advice and assistance of legal counsel and accounting and other professionals as may be necessary to properly discharge the Receiver's duties;
2. To change any or all locks on properties;
3. To account to the Court for all sums received and expenditures made, and file periodic reports to this Court from time to time, not less than once every six months;
4. With prior approval of the Plaintiff, to enter into; ratify, confirm or renegotiate leases, contracts or other agreements relating to the operation of the Property and to terminate such leases, contracts or other agreements;
5. The Receiver is specifically authorized to enter into contract(s) for the rental of the Property. Although such rental period(s) may extend beyond expiration of any redemption periods, as a result of the Public Trustee's sale of the Property, such contact(s) will be binding on all parties;
6. To exercise such other necessary or usual powers for the possession, use and enjoyment of the Property, and its rents, issues, profits, income, bank accounts and any and all deposits held as security under all leases affecting the Property;
7. To commence such actions as may be necessary in its name as a Receiver to evict tenants who are delinquent in rental payments or in default under their leases, and to pursue and collection delinquent rentals and other amounts which may be owned by tenants or former tenants of the Property, accrued as of this date or hereafter accruing, and, if the Receiver so elects to be added or substituted as plaintiff in any such actions already commenced;
8. With the prior approval of the Plaintiff, to perform ordinary and necessary repairs, including but not limited to, repairs and maintenance pursuant to the Declaration, maintenance, renovation, and remodeling of or on the Property, including deferred maintenance as the Receiver may reasonably deem necessary;
9. To apply for, obtain and renew as necessary all licenses and permits required for the operation of the Property;
10. To notify any insurers under the insurance policies affecting the Property of the pendency of these proceedings, and that, subject to the prior rights of any party holding a lien encumbering the Property; any proceeds paid under any such insurance policies shall be paid to the Receiver until such time as the said insurance carriers are advised to the contrary by this Court or until they receive a certificate issued by the Clerk of this Court evidencing the dismissal of this action; and

11. With the prior approval of the Plaintiff, to enter into contracts with third parties to accomplish any of the purposes of the Receivership, including but not limited to, one or more contracts for management services, including but not limited to, one or more contracts with management firms owned or controlled by the Receiver;
12. With the prior approval of the Plaintiff, to borrow such funds from the Plaintiff as may be required to pay the obligations of the property if funds received from the property are insufficient, to issue Receiver's Certificates evidencing such indebtedness, with interest thereon at the rate allowed in the Declaration, and to repay such advances from funds thereafter received;
13. Additionally, it is hereby ordered that all advances made by the Plaintiff to the Receiver pursuant to the provisions of this Order and/or costs, expenses and fees incurred by the Receiver, shall be deemed to constitute a lien against the property for all rights, title, interests or claims of any other person, and may be evidenced by a Receiver's Certificate of Indebtedness evidencing such indebtedness, with interest thereon at the rate allowed in the Declaration. Further, in the event of a cure, payoff, or redemption in connection with all sums advanced by Plaintiff pursuant hereto shall be deemed part of the indebtedness owing to Plaintiff.

D. Holding and Application of Receivership Funds. The Receiver is hereby directed and empowered to take immediate possession of the Property and any and all personal property located thereon, and to manage, take charge, operate and to rent said Property out, and to collect any income from said Property and from such income received pay the following charges:

1. First, to the Receiver's compensation, as may be approved by the Court;
2. Second, to the payment of any and all costs and expenses of the Plaintiff, including attorney fees, incurred in obtaining the appointment of the Receiver;
3. Third, to the payment of any and all homeowner association assessments, charges, fines or other impositions, including collection costs, attorney fees and past due charges and charges to accrue;
4. Fourth, to the other costs and expenses of the receivership, including any management fees, attorney fees and other out-of-pocket expenses incurred by the Receiver in connection with the receivership;
5. Fifth, to the payment of any and all costs and expenses of maintenance and repair of the property, including current assessments;
6. Sixth, to the payment of any prior encumbrance; and
7. Seventh, the balance, if any, as may be directed by this Court.

E. Receiver's compensation. The Receiver shall be compensated for services rendered at the rate of \$100 per hour for services performed pursuant to this Order until the Property is sold or Plaintiff's debt is satisfied. The Receiver may, in addition, reimburse itself for customary expenses and other expenses, costs, obligations and the like incurred pursuant to this Order.

F. Orders Applicable to the Defendant and Other Parties. Defendant is ordered to deliver immediately over to the Receiver or his agents all of the Property, and all books, records, leases, rental payment, lease payments, bank accounts, checks, drafts, notes, security deposits, contracts, claims, filed, furniture, fixtures, and equipment of or relating to the Property (the “Receivership Estates”), now in Defendants’ possession, endorsed to the Receiver when necessary, and to continue to deliver immediately to the Receiver any such property received at any time in the future and to permit the Receiver to carry out its duties hereunder without interference.

G. Defendants Enjoined. Defendant, her agents, employees and contractors are enjoined from:

1. Occupying the subject property while the Order of appointment is in effect;
2. Collecting any revenues from the Property or withdrawing funds from any bank or to the depository account relating to the Property or Receivership;
3. Terminating, or causing to be terminated, any license, permit, lease, contract or agreement relating to the Property; or
4. Otherwise interfering with the operation of the Receivership or the Receiver's discharge of its duties hereunder.

H. Actions Equitable. All actions which are equitable in nature and to seek equitable relief against the Receiver, the Property or the Receivership Estate are hereby stayed. Nothing in this Order shall be construed as interfering with or invalidating any lawful lien or claim by any person or entity.

I. Receiver Reports. In addition to a Final Report for the purpose of winding up the affairs of the Receivership, the Receiver shall, no less than every _____ (it is typical for this to be six months (6) for County Court, ninety (90) days for District), file reports with this Court describing the actions taken and activities of the Receiver and accounting for sums received and expenditures made as Receiver. Such Reports shall be provided to the Plaintiff, the Defendant, and all persons who file an appearance in the case by first class, U.S. mail, the Colorado courts e-filing system, or, with the written consent of such person, by email.

J. Court Approval of any motion filed by the Receiver shall be given as a matter of course, unless a party filed an objection with the Court within ten (10) days after service. In the event of an objection, the Court shall promptly hold a hearing on the motion upon at least three (3) days’ prior written notice to all objecting parties.

K. All pleadings filed herein by any party shall be served upon the Receiver either by service upon legal counsel appearing herein for the Receiver by any method permitted by C.R.C.P. 5(b)(2), or if the Receiver is appearing *pro se* by service directly on the Receiver by United States Mail at 3800 Buchtel Blvd. #101343, Denver CO 80209 or by email to ryan@thereceivergroup.com.

L. Any debts or liabilities incurred by the Receiver in the course of its operation and management of the Property or the Receivership, whether in the Receiver's name or in the name of the Property, shall be debts or obligations of the Receivership only, and not of the Receiver, Ryan Gulick of the Receiver Group, LLC. in his proprietary capacity.

M. The costs of this Receivership in excess of the income from the Receivership received by the Receiver shall be taxed as additional costs of suit to the Plaintiff.

N. The Receiver shall continue in possession of the Property until such time that all past due assessments, late fees, interest, attorney fees, costs and expenses owned by the Defendant are paid in full, and during such further period as the Court may Order and until the Receivership action is released by the Court.

O. The Receiver's actions in the performance and discharge of its duties are performed in a representative capacity as an officer of this Court. Except for claims of misfeasance or malfeasance in the performance of its duties, the Receiver is not and shall not be personally liable to any person or governmental entity under any law, statute, rule, regulation, or other doctrine of law or equity. Any claim alleging the Receiver's misfeasance or malfeasance must be made to this Court prior to the time the order discharging the Receiver is entered by the Court. All persons acting on behalf of the Receiver at the Receiver's request are protected and privileged with the same protections of this Court as the Receiver, including, without limitation, the officers, directors, employees, agents and contractors of the Receiver.

P. This Order shall be enforceable by the contempt power of the Court.

Q. The Sheriff of _____ County is hereby authorized to enforce the terms of this Order in the form of peace-keeping duties by assisting the Receiver in physically removing the current management from the Property if desired by the Receiver, escorting unauthorized individuals or tangible things from the Property and providing any other assistance that the Receiver may need in the performance of its respective duties contained herein.

R. Any and all providers of utilities to the property, including, but not limited to, Xcel Energy, Blackhills Energy, Colorado Springs Utilities, Tri-State Electric, Waste Management, Qwest, AT&T, Comcast, Atmos Energy and/or Intermountain Rural Electric Association, shall cooperate with receiver and provide any and all necessary information, including any information regarding billing, occupancy or history, the utility provider may have. This Court Order shall have the same weight and effect as a subpoena for such information.

DATED this _____ day of _____, 2016.

BY THE COURT:
