

STATE OF MICHIGAN
IN THE 13TH CIRCUIT COURT FOR THE COUNTY OF GRAND TRAVERSE

MICHIGAN BIDCO, INC.,
a Michigan corporation,

Plaintiff,

v

File No. 00-20781-CK
HON. PHILIP E. RODGERS, JR.

VILLAGE CABLE TV OF MICHIGAN, INC.,
a Michigan corporation,

Defendant.

Matthew D. Vermetten (P43425)
Attorneys for Plaintiff

William G. Burdette (P49174)
Attorney for Defendant

ORDER GRANTING DEFENDANT'S OBJECTIONS TO
PROPOSED ORDER AND GRANTING PLAINTIFF'S MOTION TO
DISCHARGE LIENS AND ESTABLISH ESCROW ACCOUNT

This is an action to enforce a Redemption Agreement. The Plaintiff has various liens on the Defendant's assets. The Defendant is in the process of selling its assets to CC Michigan, LLC and must do so "free and clear of all liens, claims and encumbrances."

In order to proceed with the closing, the Defendant filed an emergency motion to discharge liens and establish an escrow account. The Court heard the oral arguments on October 9, 2000 and granted the motion. The Defendant submitted a proposed order pursuant to MCR 2.602(B)(3). The Plaintiff filed objections to the proposed order. On November 2, 2000, the Court issued a prehearing order giving the Defendant 7 days to respond to the objections and giving the Plaintiff 14 days to reply. The Defendant filed a timely response.

The Court, having reviewed the bench notes from the hearing, the proposed order, the objections and the response, dispenses with oral argument pursuant to MCR 2.119(E)(3) and issues this Order granting the Plaintiff's objections and the Defendant's motion to discharge liens and establish an escrow account.

The Plaintiff's objections to the Defendant's proposed order are well founded. The Defendant's proposed order is very specific and goes well beyond the ruling of this Court at the October 9th hearing. The following was the ruling of the Court:

The Defendant's emergency motion to discharge liens and to establish escrow account is granted.

The Defendant is to proceed with the closing on the sale of its assets to CC Michigan, LLC. The net proceeds of the sale shall be placed in an interest bearing escrow account. The net proceeds means the proceeds of the sale minus the ordinary and customary expenses of the sale, including, real estate commissions, taxes, assessments of record, and so on.

Any existing liens shall become liens against the proceeds held in escrow. The Defendant's assets can be transferred "free and clear of all liens, claims and encumbrances."

Issues regarding the validity, amount and priority of the existing liens will be addressed by the Court in due course.

IT IS SO ORDERED.

This Order does not resolve all disputes nor close the case.

HONORABLE PHILIP E. RODGERS, JR.
Circuit Court Judge

Dated: _____