

Compared to Group 1, for the 12 unreleased properties in Group 6, the analysis is even more straightforward. In Group 1, the investors had priority because the fraudulently recorded releases were defective and did not satisfy the requirements of the Illinois Mortgage Act. *EquityBuild*, 101 F.4th at 533. Here, for the 12 properties, there are no releases whatsoever. (See ECF 1740 at 4-5, 6-7). An original mortgage recorded prior in time has priority over a later recorded mortgage on the same property. See, e.g., *Paliatka v. Bush*, 109 N.E.3d 343, 349 (Ill. App. Ct. 2018) (“Generally, the lien that is recorded first in time has priority and is entitled to satisfaction by the property it binds before other claims.”); see also *Fannie Mae v. Kuipers*, 314 Ill. App. 3d 631, 635 (Ill. App. Ct. 2000) (“A presumption exists that the first mortgage recorded has priority ... Until [a valid] release is filed, the mortgage lien remains in effect.”); *EquityBuild* at 531 (citing *Kuipers* for proposition that “a mortgage lien remains in effect until it is released... Without a properly executed and delivered release, the lien persists.”). As with Group 1, absent any valid releases on the 12 Group 6 properties, the investors should have priority.

For the foregoing reasons, the SEC respectfully requests that the Court find that for any Group 6 property – including properties 50-51, 53-57, 108, and 110-113 – where the investors’ valid prior-in-time mortgages were never released, the investors have priority and are entitled to a distribution of the proceeds of the property’s sale.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I provided service of the foregoing Position Statement, via ECF filing, to all counsel of record and Defendant Shaun Cohen, and to all claimants via the Receiver's email distribution list, on September 24, 2024.

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