



CITY OF CAMBRIDGE
INTEROFFICE CORRESPONDENCE

To All Constables empowered to Serve Civil Process

Date August 30, 1973

From City Clerk, Paul E. Healy

Reference

Subject Real Estate Attachments

Dear Sir:-

In accordance with the enclosed request in the Attorney General's Office I am sending you a copy of the latest decision of the Supreme Court relative to attachment proceedings for your guidance.

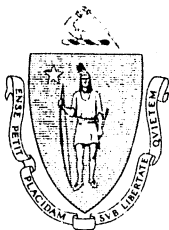
You will note that the Attorney General has requested that you call 727-2260 if you have any problems regarding this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Paul E. Healy".

Paul E. Healy,
City Clerk.

PEH/dl
ENCS.



THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF THE ATTORNEY GENERAL

STATE HOUSE • BOSTON 02133

ROBERT H. QUINN
ATTORNEY GENERAL

TO ALL CITY AND TOWN CLERKS

Dear Sir:

On August 14, 1973, a copy of the enclosed letter regarding the constitutionality of pre-judgment real estate attachments was sent to all sheriffs and Registers of Deeds in the Commonwealth. It was also our intention to send a similar letter to all Constables but, to our knowledge, a complete listing is not available.

Consequently, it is necessary for us to request each City and Town Clerk to convey the information contained in said letter to those constables appointed in their respective municipalities. We are also requesting each clerk to provide us with a copy of their list of constables.

While we very much appreciate your assistance in this matter, we apologize for the imposition.

Very truly yours,

PAUL JOHN KILGARRIFF
Assistant attorney General

PJK:k

August 14, 1973

The Honorable

Dear Register or Sheriff :

Re: Constitutionality of Prejudgment
Real Estate Attachments

Please be advised that the provisions of G. L. c. 223, §§ 42, 62-66, authorizing the pre-judgment attachment of real estate have been declared by a three-judge court to be in violation of the due process clause of the Fourteenth Amendment to the United States Constitution insofar as said statutes deny to parties in civil actions notice and opportunity to be heard prior to the attachment of their real estate.

The decision, entered on August 7, 1973 in Bay State Harness Horse Racing and Breeding Association, Inc. v. PPG Industries, Inc. ET AL., C.A. 72-2178-H and consolidated companion cases, proscribes the subsequent recording on or after August 7, 1973 of real estate attachments made prior to that date unless there has been notice and opportunity for hearing. All attachments made pursuant to G. L. c. 223, §§ 42, 62-66 on or after August 7, 1973 are constitutionally defective unless there appears from the writ (or otherwise) evidence that the requirements of notice and opportunity for hearing have been satisfied.

The Court in its decision relies heavily on Fuentes v. Shevin, 407 U.S. 67 (1972) which has similarly affected like statutes in other states.

Any questions regarding this matter may be directed to Assistant Attorney General Paul Kilgarriff at 727-2260.

Very truly yours,

ROBERT H. QUINN
Attorney General

August 14, 1973

The Honorable

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Any questions regarding this matter may be directed to Assistant Attorney General Paul Kilgariff at 727-2260.

Very truly yours,

ROBERT H. QUINN
Attorney General

S-353(a)

• Comm. from City Clerk, Paul
Healy re: Real Estate Attachments

Aug. 30, 1973