

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Cherry Hills Apartments of Fort Worth)
LLC D/B/A FW Cherry Hills Apartments,)
LLC, Michael Farragher, Sheila Farragher-)
Gemma, Jeremy Shapiro, Anthony L.)
Farragher-Gemma and Robert Gemma,)

Plaintiffs,)

v.)

Civil Action No. 14-12953-LTS

Robert T. Engleby,)

Defendant.)

Cherry Hills Apartments of Fort Worth)
LLC D/B/A FW Cherry Hills Apartments,)
LLC, Michael Farragher, Sheila Farragher-)
Gemma, Jeremy Shapiro, Anthony L.)
Farragher-Gemma and Robert Gemma,)

Plaintiffs,)

v.)

Civil Action No. 14-12954-LTS

Robert T. Engleby,)

Defendant.)

ORDER ON PLAINTIFFS'
MOTION FOR A PRELIMINARY INJUNCTION

July 30, 2014

SOROKIN, D.J.

Plaintiffs in these two actions moved for preliminary injunctions enjoining Defendant from foreclosing on properties located at 30 Oriole Road in Medfield, Massachusetts and 6-8

Morgan Place, in Newton, Massachusetts, respectively. The Court held a nonevidentiary hearing on July 30, 2014.

Plaintiffs bear the burden to establish all elements required for grant of a preliminary injunction, including a likelihood of success on the merits. New Comm Wireless Servs., Inc. v. SprintCom, Inc., 287 F.3d 1, 8-9 (1st Cir. 2002). In order to make this showing, Plaintiffs concede they must establish the likelihood of success on the claim of fraud currently being litigated in Texas state court. In support of their claim, Plaintiffs offer only the verified complaint, which makes general allegations of fraud, but have presented no specific evidence to otherwise substantiate their claim. In response, Defendant has offered specific evidence, in the form of rent rolls, which is inconsistent with the general allegation of fraud contained in the verified complaint. On this record, Plaintiffs have not established a likelihood of success on their claim of fraud. Accordingly, the motion for a preliminary injunction in each of the above-captioned cases is DENIED.

SO ORDERED.

/s/ Leo T. Sorokin
Leo T. Sorokin
United States District Judge