

NYCTL 2018-A Trust v Nottingham Holdings Ltd.

2019 NY Slip Op 31849(U)

June 26, 2019

Supreme Court, New York County

Docket Number: 152394/2019

Judge: Arlene P. Bluth

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARLENE P. BLUTH PART IAS MOTION 32

Justice

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INDEX NO. 152394/2019

NYCTL 2018-A TRUST, THE BANK OF NEW YORK
MELLON AS COLLATERAL AGENT AND CUSTODIAN
FOR THE NYCTL 2018-A TRUST,

MOTION DATE 05/29/2019

MOTION SEQ. NO. 001

Plaintiff,

- v -

NOTTINGHAM HOLDINGS LTD., NEW YORK CITY
DEPARTMENT OF FINANCE, NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE, BOARD OF
MANAGERS OF THE CITYSPIRE CONDOMINIUM, JOHN
DOE NO. 1 THROUGH JOHN DOE NO. 100 INCLUSIVE,
THE NAMES OF THE LAST 100 DEFENDANTS BEING
FICTITIOUS, THE TRUE NAMES OF SAID DEFENDANTS
BEING UNKNOWN TO PLAINTIFF, IT BEING INTENDED
TO DESIGNATE FEE OWNERS, TENANTS OR
OCCUPANTS OF THE LIENED PREMISES, INDIVIDUAL
DEFENDANTS BE DEAD, THEIR HEIRS AT LAW, NEXT
OF KIN, DISTRIBUTEES, EXECUTORS,
ADMINISTRATORS, TRUSTEES, COMMITTEES,
DEVISEES, LEGATEES, AND THE ASSIGNEES,
LIENORS,

DECISION + ORDER OF
REFERENCE

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 9, 10, 11, 12, 13, 14,
15, 16, 17, 18, 19, 20

were read on this motion to/for APPOINT - REFEREE

Upon the foregoing documents, it is

ORDERED that the motion for a default judgment and to appoint a referee is granted

without opposition; and it is further

ORDERED that Joseph Buono, Esq. with an address of
804 Route 9, Suite 4, Fishkill, NY 12524 845-765-1050
is hereby appointed Referee in

accordance with RPAPL § 1321 to compute the amount due to Plaintiff and to examine whether

the tax parcel can be sold in parcels; and it is further

ORDERED that the Referee may take testimony pursuant to RPAPL § 1321; and it is further

ORDERED that by accepting this appointment the Referee certifies that he is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2 (c) (“Disqualifications from appointment”), and §36.2 (d) (“Limitations on appointments based upon compensation”), and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED that, pursuant to CPLR 8003(a), and in the discretion of the court, a fee of \$350 shall be paid to the Referee for the computation of the amount due and upon the filing of his report and the Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(b); and it is further;

ORDERED that the Referee is prohibited from accepting or retaining any funds for himself or paying funds to himself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED that plaintiff shall forward all necessary documents to the Referee within 30 days of the date of this order and shall *promptly* respond to every inquiry made by the referee (promptly means within two business days); and it is further

ORDERED that plaintiff must bring a motion for a judgment of foreclosure and sale within 30 days of receipt of the referee’s report; and it is further

ORDERED that if plaintiff fails to meet these deadlines, then the Court may *sua sponte* vacate this order and direct plaintiff to move again for an order of reference and the Court may

sua sponte toll interest depending on whether the delays are due to plaintiff's failure to move this litigation forward; and it further

ORDERED that "John Doe No. 2" through "John Doe. No. 100" be removed as party defendants in this action and that John Doe No. 1 be substituted to be "John Doe Name Unknown sha John Doe No. 1" and the caption of this action be amended to reflect the removal and substitution of these defendants; and it is further

ORDERED that the caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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NYCTL 2018-A TRUST, THE BANK OF NEW YORK MELLON AS COLLATERAL AGENT AND CUSTODIAN FOR THE NYCTL 2018-A TRUST,

Plaintiff,

v.

NOTTINGHAM HOLDINGS LTD., NEW YORK CITY DEPARTMENT OF FINANCE, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, BOARD OF MANAGERS OF THE CITYSPIRE CONDOMINIUM, JOHN DOE NAME UNKNOWN SHA JOHN DOE NO. 1,

Defendant(s).
-----X

and it is further

ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being removed and substituted pursuant hereto; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address (ww.nycourts.gov/suptctmanh)].

ORDERED that Plaintiff shall serve a copy of this Order with notice of entry on all parties and persons entitled to notice, including the Referee appointed herein.

Next Conference: December 10, 2019 @ 2:15 p.m. If a motion for judgment of foreclosure and sale has been filed, plaintiff may seek an adjournment of the conference. Please consult this part's rules for information on how to obtain an adjournment. If a motion has been made, then a conference is required to explore the reasons for the delay.

6/26/19

DATE

ARLENE P. BLUTH, J.S.C.
HON. ARLENE P. BLUTH

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE