

**Board of Mgrs. of Meadowwood at Gateway
Condominium v Williams**

2024 NY Slip Op 32896(U)

July 17, 2024

Supreme Court, Kings County

Docket Number: Index No. 522818/2022

Judge: Richard J. Montelione

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This opinion is uncorrected and not selected for official publication.

At IAS Part 99 of the Supreme Court of the State of New York, in and for the County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn, New York, on the ____ day of _____, 2024

JUL 17 2024

P R E S E N T:

Hon. Richard Montelione
J.S.C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
BOARD OF MANAGERS OF MEADOWWOOD
AT GATEWAY CONDOMINIUM,

Plaintiff,

-against-

RITA WILLIAMS, WELLS FARGO BANK, N.A.,
NEW YORK CITY DEPARTMENT OF HOUSING
PRESERVATION AND URBAN DEVELOPMENT,
NEW YORK CITY PARKING VIOLATIONS
BUREAU, NEW YORK CITY ENVIRONMENTAL
CONTROL BOARD, NEW YORK CITY TRANSIT
ADJUDICATION BUREAU, SHOREFRONT
JEWISH GERIATRIC CENTER, AND “JOHN DOE
#1” THROUGH “JOHN DOE #10”, the last ten names
being fictitious and unknown to plaintiff, the persons or
parties intended being the persons or parties, if any,
having or claiming an interest in or lien upon the
premises described in the complaint,

Defendants.

-----X

MOTION SEQ.: 1

Index No.: 522818/2022

**DECISION AND ORDER
OF REFERENCE**

Cal No. 10
MS No. 1

UPON Plaintiff Board of Managers of Meadowwood at Gateway Condominium (the “Plaintiff”, or “Meadowwood”) having duly moved for, *inter alia*, an Order (i) pursuant to CPLR §3212, granting Plaintiff summary judgment on all causes of action against defendant Rita Williams (“Defendant”); (ii) pursuant to RPAPL §1321, for an Order of Reference, appointing a

referee to compute the amount due to Plaintiff for common charges, late fees and interest and for any other amounts due and owing Plaintiff, including reasonable attorneys' fees and sums advanced by Plaintiff under the terms of the Condominium's by-laws (the "By-laws"); (iii) pursuant to CPLR §3211(b) striking and dismissing each of the defenses and/or affirmative defenses in Defendant's Answer verified on September 14, 2022; (iv) pursuant to CPLR §3025, amending the caption to reflect "New York City Department of Housing, Preservation and Development" in place and stead of "New York City Department of Housing Preservation and Urban Development"; and (v) pursuant to CPLR §3212 and CPLR §3211 striking/dismissing the affirmative defenses set forth in the Verified Answer dated October 14, 2022 of defendant New York City Department of Housing Preservation and Urban Development ("HPD"), awarding summary judgment in favor of Plaintiff and against HPD, and declaring that HPD's alleged mortgage terminated upon its own terms and does not have priority over the lien being foreclosed herein (collectively, the "Motion");

UPON, Plaintiff duly filing a condominium common charge lien dated August 23, 2017 and recorded on August 23, 2017 with the Office of the City Register of the City of New York;

UPON, Plaintiff duly filing a condominium common charge lien dated October 3, 2023 and recorded on October 10, 2023 with the Office of the City Register of the City of New York (the "Lien");

UPON, this proceeding being discontinued against defendant Wells Fargo Bank, N.A. pursuant to the Notice of Discontinuance dated October 4, 2023 (NYSCEF Doc. No. 32);

UPON, this proceeding being discontinued against HPD pursuant to the Stipulation dated May 20, 2024 (NYSCEF Doc No. 50);

NOW, UPON THE READING AND FILING OF the Summons and Verified Complaint dated July 14, 2022 and verified on July 14, 2022 (“Verified Complaint”; NYSCEF Doc. No. 1), the Notice of Pendency dated July 14, 2022 (NYSCEF Doc. No. 5), Defendant’s Answer verified on September 14, 2022 (“Answer”; NYSCEF Doc. No. 6); Plaintiff’s Notice of Motion for Summary Judgment dated October 4, 2023 (NYSCEF Doc. No. 16); the Affidavit in Support of Motion for Summary Judgment of John Sanjurjo sworn to on October 4, 2023 (NYSCEF Doc. No. 17), together with the exhibits annexed thereto (NYSCEF Doc. Nos. 18-27); Plaintiff’s Memorandum of Law in Support of Motion for Summary Judgment dated October 4, 2023 (NYSCEF Doc. No. 28); the Affirmation of Regularity and in Support of Motion for Summary Judgment of Oren J. Gerber, Esq. dated October 4, 2023 (NYSCEF Doc. No. 29); and upon the affidavits of service heretofore filed herein; and

UPON, all the other papers and proceedings already had herein, and it appearing to the satisfaction of this Court that this action is brought to foreclose a lien for unpaid common charges with respect to the condominium unit 13 2G (the “Unit”) in the premises known as Meadowood at Gateway Condominium (the “Condominium”) and located at 12399 Flatlands Avenue, Brooklyn, New York 11207, in the County of Kings from which it appears that the Plaintiff is the holder of the lien on the Unit, and the defendant Rita Williams is the owner of the Unit and is in default in the payment of common charges and assessments for the period of January 1, 2014 through present and that the within proceeding has been instituted for foreclosure of said lien and that pursuant to Plaintiff’s By-laws, to which the deed to the Unit is subject, it was covenanted that if default should be made in the payment of common charges or assessments due to Plaintiff, Plaintiff is entitled to file a lien for such unpaid common charges and to foreclose upon said lien; and

NOW, on motion of Rosenberg & Pittinsky, LLP, attorneys for Plaintiff, and this matter having come before the Court on July 17, 2024 and HPD's opposition to the Motion and cross-motion having been withdrawn pursuant to the Stipulation dated May 20, 2024 (NYSCEF Doc No. 50) and there being no other opposition to the Motion; it is

ORDERED, that Plaintiff's Motion is hereby granted with respect to all relief sought against defendant Rita Williams; and it is further

ORDERED, that the defenses and/or affirmative defenses in defendant Rita Williams' Answer are stricken and dismissed; and it is further

ORDERED, that Plaintiff shall have judgment for the relief demanded in the Verified Complaint against defendant Rita Williams as a matter of law, plus all amounts which have accrued *pendente lite*; and it is further;

ORDERED, that this action be and the same hereby is referred to STEPHEN SPINELLI, ESQ. at 659 BEMENT AVENUE
STATEN ISLAND, NY 10310
(718)-256-3333 as Referee to ascertain and compute the amount due to Plaintiff herein for common charges, assessments, late fees, interest, attorneys' fees and any other charges advanced as provided for in the written and recorded Lien and based upon the Condominium's By-laws, to examine and report whether the liened Unit can be sold in one parcel and the referee make the report to the Court with all convenient speed and upon confirmation thereof, Plaintiff may apply for judgment of foreclosure and sale, and for all costs, disbursements and allowances permitted under the law; and it is further

ORDERED, that upon submission of the Referee's Report, Plaintiff shall pay \$350.00 to the Referee as compensation for his/her services pursuant to CPLR 8003(a), which sum may be recouped as a cost of litigation; and it is further

ORDERED, that the Referee appointed herein is subject to the requirements of Rule 36.2 (c) of the Chief Judge, and if the Referee is disqualified from receiving an appointment pursuant to the provision of that Rule, the Referee shall notify the Appointing Judge forthwith; and it is further

ORDERED, that by accepting this appointment the referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to, section 36.2(c) (Disqualifications from appointment”) and section 36.2(d) (“Limitations on appointments based upon compensation”); and it is further

ORDERED, that a copy of this Order with Notice of Entry shall be served upon the designated Referee, the owner of the equity of redemption, any tenants named in this action and any other party entitled to notice within twenty (20) days of entry and no less than thirty (3) days prior to any hearing before the Referee. The Referee shall not proceed to take evidence as provided herein without proof of such service, which proof must accompany any application for Final Judgment of Foreclosure and Sale.

ENTER:


Richard Montelione, J.S.C.

Hon. Richard J. Montelione

**KINGS COUNTY CLERK
FILED
2024 AUG 14 A 11:03**