

**NYCTL 2021-A Trust v Clinton Assn. for a Renewed
Envt. (C.A.R.E.)**

2025 NY Slip Op 33653(U)

September 26, 2025

Supreme Court, New York County

Docket Number: Index No. 158816/2022

Judge: Francis A. Kahn III

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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. FRANCIS A. KAHN, III PART 32

Justice

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INDEX NO. 158816/2022

NYCTL 2021-A TRUST, AND THE BANK OF NEW YORK MELLON AS COLLATERAL AGENT AND CUSTODIAN FOR THE NYCTL 2021-A TRUST,

MOTION DATE

MOTION SEQ. NO. 004

Plaintiff,

- v -

CLINTON ASSOCIATION FOR A RENEWED ENVIRONMENT (C.A.R.E.), NEW YORK CITY DEPARTMENT OF FINANCE, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, CANADIAN IMPERIAL BANK OF COMMERCE (NEW YORK), MANUFACTURERS HANOVER TRUST COMPANY, AND 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, DISTRIBUTEES, EXECUTORS, ADMINISTRATORS, TRUSTEES, COMMITTEES, DEVISEES, LEGATEES, AND THE ASSIGNEES, LIENORS, CREDITORS AND SUCCESSORS IN INTEREST OF THEM, AND GENERALLY ALL PERSONS HAVING OR CLAIMING UNDER, BY, THROUGH, OR AGAINST THE SAID DEFENDANTS

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102

were read on this motion to/for JUDGMENT - SUMMARY

In this action to foreclose on a tax lien, Plaintiff moves for summary judgment against Defendant Clinton Association for a Renewed Environment ("CARE"), a default judgment against the non-appearing Defendants and appointment of a referee to compute. Defendant CARE opposes the motion.

The evidence proffered by Plaintiff in support of its motion demonstrated prima facie entitlement to the relief requested by submitting the subject tax lien certificate, which was presumptive evidence of a valid and enforceable lien, proof that the outstanding balance due under the lien was not paid, as well as evidence that constitutionally adequate notice of the sale of the tax lien was provided (see eg NYCTL

2009-A Trust v Morris, 164 AD3d 1249 [2d Dept 2018]; NYCTL 1998-2 Trustee v 2388 Nostrand Corp., 69 AD3d 594 [2d Dept 2010]).

In opposition, Defendant CARE “failed to raise a triable issue of fact in opposition to the plaintiffs’ showing or as to the merit of their affirmative defenses alleging that the subject tax lien is defective” (NYCTL 2011-A Trust v Evelyn, 175 AD3d 1418 [2d Dept 2019]; see also NYCTL 2008-A Trust v Livingston, 175 AD3d 1542 [2d Dept 2019]; NYCTL 1998-2 Trust v 104-26 Jamaica Ave, LLC, 160 AD3d 974 [2d Dept 2018]; NYCTL 1998-2 Trustee v. 2388 Nostrand Corp., 69 AD3d 594 [2nd Dept 2010]). No evidence sufficient to counter Plaintiff’s proof of compliance with the pre-sale notification process contained in New York City Administrative Code §§11-320(a) and (b) was shown (see generally *Hetelekides v County of Ontario*, 39 NY3d 222 [2023]). With respect to the purported failure to join necessary parties, Defendant neglected to demonstrate that any of the alleged lien holders are subordinate to the Plaintiff’s claims (see *Polish Nat. Alliance of Brooklyn, USA v White Eagle Hall Co., Inc.*, 98 AD2d 400, 406 [2d Dept 1983]; see also *John Hancock Mut. Life Ins. Co. v 491-499 Seventh Ave. Assocs.*, 220 AD2d 208 [1st Dept 1995]). The arguments concerning lack of standing and conflict of interest are conclusory and based entirely on speculation.

Accordingly, it is

ORDERED that the motion for a default judgment, the appointment of a referee to compute and to amend the caption is granted; and it is further

ORDERED that **Mark McKew, Esq., 1725 York Ave, Ste 29A, New York, New York, 212-876-6783** is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount due to Plaintiff and examine whether the tax parcel can be sold in parcels; and it is further

ORDERED that in the discretion of the Referee, a hearing may be held, and testimony taken; 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 if the Referee holds a hearing or is required to perform other significant services in issuing the report, the Referee may seek additional compensation at the Referee’s usual and customary hourly rate; and it is further

ORDERED that plaintiff shall forward all necessary documents to the Referee and to defendants who have appeared in this case 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 if defendant(s) have objections, they must submit them to the referee within 14 days of the mailing of plaintiff's submissions; and include these objections to the Court if opposing the motion for a judgment of foreclosure and sale; and it is further

ORDERED the failure by defendants to submit objections to the referee shall be deemed a waiver of objections before the Court on an application for a judgment of foreclosure and sale; 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, the caption be amended to substitute NYCTL 1998-2 TRUST in place and stead of NYCTL 2021-A TRUST, without prejudice to any of the proceedings heretofore had herein or to be had herein, and it is further

ORDERED that the caption of this action be amended by striking therefrom the Defendants sued herein as "John Doe No. 1" through "John Doe No. 100," all without prejudice to the proceedings heretofore and had herein; 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 1998-2 TRUST, and THE BANK OF NEW YORK MELLON as Collateral Agent and Custodian for the NYCTL 1998-2 Trust,

Plaintiff,

-against-

CLINTON ASSOCIATION FOR A RENEWED ENVIRONMENT (C.A.R.E.), NEW YORK CITY DEPARTMENT OF FINANCE, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, CANADIAN IMPERIAL BANK OF COMMERCE (NEW YORK), MANUFACTURERS HANOVER TRUST COMPANY, LIBERTY FINE WINES & SPIRITS, ROBERT WINCKELMAN, MOHAMMED SINGH, JUAN SOTO and SAM DAM,

Defendants.

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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 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 (www.nycourts.gov/supctmanh)); and it is further

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.

All parties are to appear for a virtual conference via Microsoft Teams on **January 28, 2025, at 11:00 a.m.** If a motion for judgment of foreclosure and sale has been filed Plaintiff may contact the Part Clerk (SFC-Part32-Clerk@nycourts.gov) in writing to request that the conference be cancelled. If a motion has not been made, then a conference is required to explore the reasons for the delay.

9/26/2025

DATE

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NONFINAL DISPOSITION

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE

Francis Kahn, III

FRANCIS KAHN, III, A.J.S.C.

HON. FRANCIS A. KAHN III
J.S.C.