

AAreal Capital Corp.. v 960 Assoc. LLC

2026 NY Slip Op 31507(U)

April 9, 2026

Supreme Court, New York County

Docket Number: Index No. 805379/2025

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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AAREAL CAPITAL CORPORATION,

Plaintiff,

INDEX NO. 805379/2025

MOTION DATE 01/30/2026

- v -

MOTION SEQ. NO. 003

960 ASSOCIATES LLC, VICTOR TAWIL, ELYAHU
COHEN, NEW YORK STATE DEPARTMENT OF
TAXATION AND FINANCE, NEW YORK CITY
DEPARTMENT OF FINANCE, CORPHOUSING GROUP,
INC., JOHN DOE NO. 1 TO JOHN DOE NO. 100,
INCLUSIVE,

**DECISION + ORDER ON
MOTION**

Defendants.

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 003) 62, 63, 64, 65, 66, 67

were read on this motion for DEFAULT JUDGMENT.

Plaintiff Aareal Capital Corporation (“Plaintiff”) seeks an Order granting (i) a default judgment in its favor against Defendants 960 Associates, Victor Tawil, and Elyahu Cohen (collectively, the “Borrower Defendants”), New York City Department of Finance (“DOF”), New York State Department of Taxation and Finance (“NYSDTF”), and CorpHousing Group, Inc. d/b/a/ LuxUrban Hotels Inc.’s (“LuxUrban”) (collectively, the “Defaulting Defendants”) and (ii) the appointment of a Referee to calculate the outstanding amount owed to Plaintiff pursuant to Real Property Actions and Proceedings Law § 1321. No parties have opposed this motion. For the following reasons, Plaintiff’s motion is granted.

Plaintiff has submitted un rebutted evidence demonstrating compliance with the requirements of CPLR 3215(f). First, counsel for the Borrower Defendants confirmed acceptance of service of process on August 28, 2025 (NYSCEF 63 [“Morrison Affirm”] ¶ 8;

NYSCEF 64). Aareal also filed affirmations of service reflecting service of the Complaint on DOF, NYSDTF, and LuxUrban on August 28, August 29, and September 5, 2025, respectively (NYSCEF 40–42). “A process server’s affidavit of service creates a rebuttable presumption of proper service” (*154 E. 62 LLC v 156 E 62nd St. LLC*, 2017 NY Slip Op 31576[U], 5 [Sup Ct, NY County 2017], *affd*, 159 AD3d 498 [1st Dept 2018]).

Second, Plaintiff has filed a Verified Complaint (NYSCEF 1) as well as the Affirmation of Steve Rosamilia, Executive Director of Plaintiff, setting forth the evidence of Borrower’s defaults under the Loan Agreement and proffering the facts constituting Plaintiff’s claim (NYSCEF 65 [“Rosamilia Affirm”] ¶¶ 18, 20–22, 24, 26, 30), including the right to foreclose the Mortgage as a result of Borrower’s defaults (Rosamilia Affirm ¶ 32).

Finally, the accompanying Affirmation of Randall L. Morrison, Jr. provides evidence of the Defaulting Defendants’ failure to answer or move against the Complaint within the thirty days provided by CPLR 3012(c) (Morrison Affirm ¶¶ 8–13). The automatic stay under Section 362 of the Bankruptcy Code merely tolled the thirty-day deadline to answer between September 14, 2025, when it was entered, and November 4, 2025, when it was lifted (NYSCEF 43; 45).¹

The first through third causes of action in the Verified Complaint seek to foreclose the Mortgage, foreclose the personal property security interests granted to Aareal under the Uniform Commercial Code, and a deficiency against Defendants Tawil and Cohen as guarantors (pursuant

¹ On September 14, 2025, LuxUrban filed a voluntary petition for reorganization under Chapter 11 of Title 11 of the United States Code, thereby automatically staying this action pursuant to section 362 of the Bankruptcy Code (NYSCEF 43). On November 4, 2025, LuxUrban, Aareal, and the bankruptcy trustee stipulated to a modification of the automatic stay “to permit Aareal to continue the prosecution of the Foreclosure Action” in this Court (NYSCEF 45, at 4 ¶2), and the clock started again for the defendants to respond to the Complaint.

to RPAPL § 1371 (NYSCEF 1).² Through their default, the Defaulting Defendants concede their liability on those causes of action and a default judgment is proper (*HF Mgt. Services, LLC v Dependable Care, LLC*, 198 AD3d 457, 458 [1st Dept 2021] [“It is well established that, by defaulting, a defendant admits all traversable allegations contained in the complaint, and thus concedes liability, although not damages”]).

Therefore, Plaintiff’s request for an order of reference so that a referee may compute the amount due to the Plaintiff and determine whether the property can be sold in parcels is granted (*see Flushing Bank v. 4 West 121st Street, LLC, et al.*, Index No. 850348/2025, NYSCEF 34, at 1 [Sup Ct, NY County 2025]).

The Defaulting Defendants may seek a vacatur of the instant default judgment if they can satisfy the requirements of CPLR § 5015, CPLR § 317, or any other relevant law.

Accordingly, it is

ORDERED that Plaintiff’s motion for default judgment in favor of Plaintiff and against the Defaulting Defendants and for the appointment of a Referee to compute and report the amount due Plaintiff under the subject note, mortgage, and other loan documents pursuant to RPAPL § 1321 is **GRANTED**; it is further

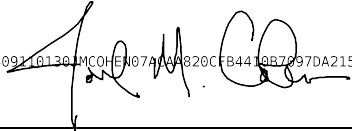
ORDERED that Plaintiff shall submit a proposed order of reference with a proposed Referee within fourteen (14) days of the date of this Order; it is further

ORDERED that Plaintiff shall serve a copy of this Order with Notice of Entry upon the Non-Appearing Defendants within seven (7) days of the date of this Order.

This constitutes the Decision and Order of the Court.

² The Court has already appointed a receiver over the property at issue (*see* NYSCEF 47).

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JOEL M. COHEN, J.S.C.

4/9/2026
DATE

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|-----------------------|-------------------------------------|----------------------------|-------------------------------------|-----------------------|
| CHECK ONE: | <input type="checkbox"/> | CASE DISPOSED | <input checked="" type="checkbox"/> | NON-FINAL DISPOSITION |
| | <input checked="" type="checkbox"/> | GRANTED | <input type="checkbox"/> | GRANTED IN PART |
| | | | <input type="checkbox"/> | OTHER |
| APPLICATION: | <input type="checkbox"/> | SETTLE ORDER | <input type="checkbox"/> | SUBMIT ORDER |
| CHECK IF APPROPRIATE: | <input type="checkbox"/> | INCLUDES TRANSFER/REASSIGN | <input type="checkbox"/> | FIDUCIARY APPOINTMENT |
| | | | <input type="checkbox"/> | REFERENCE |