

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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|--|---|----------------------|
| IP OF A WEST 86 TH STREET 2, LLC, et. al, |) | |
| |) | |
| Plaintiff, |) | |
| |) | 1:09-cv-573- SEB-DML |
| vs. |) | |
| |) | |
| MORGAN STANLEY MORTGAGE |) | |
| CAPITAL HOLDINGS, LLC, |) | |
| |) | |
| Defendant. |) | |

ORDER GRANTING DEFENDANT’S BILL OF COSTS

(Docket No. 97)

On July 21, 2011, we granted Defendant’s motion for summary judgment, denied Plaintiffs’ cross-motion for summary judgment, and entered judgment in favor of Defendant and against Plaintiffs. Shortly thereafter, Defendant filed its Bill of Costs, but we stayed a ruling on Defendant’s request pending Plaintiffs’ appeal. Now that the Seventh Circuit has affirmed our judgment, Defendant’s Bill of Costs is ripe for ruling.

Fed. R. Civ. P. 54(b) provides a “presumption” that costs will be awarded to the prevailing party, but grants the court discretion to direct otherwise. Rivera v. City of Chicago, 469 F.3d 631, 634 (7th Cir. 2006). The decision of a district court to tax costs will not be reversed on appeal, absent “a clear abuse of discretion.” Northbrook Excess and Surplus Insurance Co., v. Proctor & Gamble Co., 924 F.2d 633, 642 (7th Cir. 1991).


We have reviewed Defendant’s Bill of Costs, including each of the invoices submitted therewith, and find that even though Defendant seeks a rather substantial amount of money, Defendant has not overreached or sought costs beyond those contemplated by 28 U.S.C. § 1920.

We also find that Plaintiff has had a reasonable opportunity to object to the costs sought by Defendant, but has not done so. We, thus, conclude that Defendant is entitled to recover the total sum it has requested.

Accordingly, Defendant is awarded its costs incurred in this matter in the total amount of \$89,811.43. A judgment for costs shall issue.

IT IS SO ORDERED.

Date: 02/07/2013



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Copies to:

Electronically registered counsel of record.