

**Avant Capital 2035 Adam Clayton Powell Jr Blvd
LLC v Genesis Holding LLC**

2019 NY Slip Op 33086(U)

October 16, 2019

Supreme Court, New York County

Docket Number: 850220/2018

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

-----X

INDEX NO. 850220/2018

AVANT CAPITAL 2035 ADAM CLAYTON POWELL JR
BLVD LLC,

MOTION DATE 10/08/2019

Plaintiff,

MOTION SEQ. NO. 003

- v -

GENESIS HOLDING LLC, EMMANUEL KU, NEW YORK
CITY DEPARTMENT OF HOUSING PRESERVATION AND
DEVELOPMENT, NEW YORK CITY ENVIRONMENTAL
CONTROL BOARD, SEAN KU, JOHN DOE #1 THROUGH
JOHN DOE #12,

**DECISION + ORDER ON
MOTION, ORDER OF
REFERENCE**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 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

were read on this motion to/for JUDGMENT - DEFAULT

Upon the foregoing documents, it is

ORDERED that the motion by plaintiff for a default judgment against all non-appearing
defendants is granted; and it is further

ORDERED that Mark McKew, Esq with an address of
1725 York Ave Suite 29A NY NY 10128 212-876-6783 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 the John Doe defendants shall be removed from this action and the caption shall read as follows:

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

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AVANT CAPITAL 2035 ADAM CLAYTON
POWELL JR BLVD LLC,

Plaintiff,

v.

GENESIS HOLDING LLC, EMMANUEL KU,
NEW YORK CITY DEPARTMENT OF
HOUSING PRESERVATION AND
DEVELOPMENT, NEW YORK CITY
ENVIRONMENTAL CONTROL BOARD,
SEAN KU,
Defendant(s).

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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.

Next Conference: March 24, 2020 @ 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.

10/16/19

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