NYCTL 2019-A Trust v 196 E. 7th St. LLC

2021 NY Slip Op 30082(U)

January 11, 2021

Supreme Court, New York County

Docket Number: 158758/2020

Judge: Lyle E. Frank

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001(</u>U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

FILED: NEW YORK COUNTY CLERK 01/11/2021 04:02 PM

NYSCEF DOC. NO. 25

SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT:	HON. LYLE E. FRANK	PART	IAS MOTION 52EFM
	Justic	ce	
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NYCTL 2019-A TRUST, AND THE BANK OF NEW YORK MELLON AS COLLATERAL AGENT AND CUSTODIAN FOR THE NYCTL 2019-A TRUST.		MOTION DATE	01/08/2021
TOR HEN	CTE 2019-A TRUST,	MOTION SEQ. NO	b . 001
	Plaintiff,		
	- V -		
	H STREET LLC,NEW YORK CITY IT OF FINANCE, NEW YORK STATE		

DEPARTMENT OF FINANCE, NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, THE CITY OF NEW YORK, NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, JOHN DOE NO. 1 THROUGH JOHN DOE NO. 100

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24

were read on this motion to/for

APPOINT - REFEREE

Upon the foregoing documents, based upon the Summons, Complaint and Notice of Pendency filed in this action on October 19, 2020 and upon the Affirmation of Josef F. Abt, Esq., Of Counsel to the firm of BRONSTER LLP, attorneys for the Plaintiffs, dated December 9, 2020, from which it appears that this action was brought to foreclose a certain tax lien on real property situated in the County of New York, State of New York, at 196 East 7th Street, New York, New York., Block 389 Lot 16 (on the Tax Map of New York County) by reason of certain defaults alleged in the Complaint and upon the Affidavit of Facts of Kurt Shadle sworn to on November 12, 2020, and it is further appearing that all the defendants have been duly served with a copy of the Summons and Complaint or have appeared herein, except the defendants "JOHN DOE No.1" through "JOHN DOE No.100" who were not served copies of the Summons and Complaint and are not necessary parties to this action, and no answer has been interposed by **158758/2020 Motion No. 001**

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defendants though the time to do so has expired; and it appearing that none of the defendants are infants, incompetent or absentee, or in the military, and that since the filing of the Notice of Pendency of this action on October 19, 2020, the complaint has not been amended in any manner whatsoever; on the pleadings heretofore filed herein and no one appearing in opposition thereto, NOW, upon motion of BRONSTER LLP, attorneys of record for Plaintiffs, it is

ORDERED, that the motion is granted without opposition; and it is further

ORDERED that a Judicial Hearing Officer ("JHO") or Special Referee shall be designated to determine the following individual issues of fact, which are hereby submitted to the JHO/Special Referee for such purpose to ascertain and compute the amount due to plaintiffs herein for principal, interest, water and sewer rents, if any, insurance premiums, if any, advances to protect the lien of the subject tax lien certificate mentioned in the complaint and to examine and report whether or not the premises should be sold in parcels; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR unless otherwise indicated; and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (Room 119, 646-386-3028 or spref@nycourts.gov) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court at www.nycourts.gov/supctmanh at the "References" link), shall assign this matter at the initial appearance to an available JHO/Special Referee to determine as specified above; and it is further

ORDERED that counsel shall immediately consult one another and counsel for plaintiff/petitioner shall, within 15 days from the date of this Order, submit to the Special Referee Clerk by fax (212-401-9186) or e-mail an Information Sheet (accessible at the "References" link

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on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part; and it is further

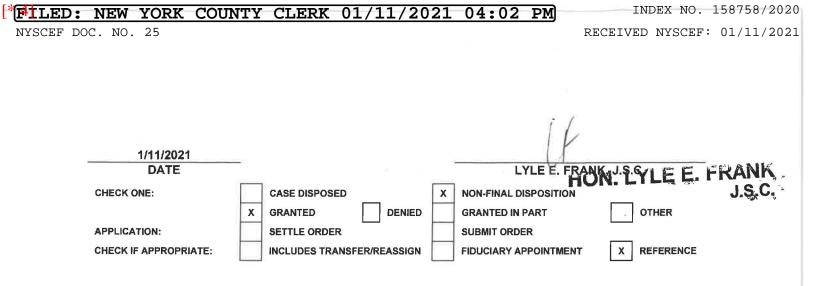
ORDERED that the plaintiff shall serve a proposed accounting within 24 days from the date of this order and the foregoing papers shall be filed with the Special Referee Clerk prior to the original appearance date in Part SRP fixed by the Clerk as set forth above; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issue(s) specified above shall proceed from day to day until completion and counsel must arrange their schedules and those of their witnesses accordingly; and it is further

ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and the Special Referees (available at the "References" link on the court's website) by filing same with the New York State Courts Electronic Filing System (see Rule 2 of the Uniform Rules); and it is further

ORDERED that a default judgment in favor of the plaintiffs be granted as to the claim described in Plaintiffs' Complaint herein; and it is further

ORDERED the caption be amended to reflect that the names of defendants "JOHN DOE No.1" through "JOHN DOE No. 100" be severed and stricken from the caption herein and that the action be discontinued as to them.



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