

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS DEVELOPMENT)	Electronically Filed
GROUP, LLC, A NEVADA LIMITED)	Sep 14 2021 06:44 p.m.
LIABILITY COMPANY,)	Elizabeth A. Brown
)	Clerk of Supreme Court
)	Supreme Court No. 81961
Appellant,)	
vs.)	Consolidated with No. 82266
)	
THE BANK OF NEW YORK)	
MELLON, F/K/A THE BANK OF NEW)	
YORK, AS TRUSTEE FOR THE)	
CERTIFICATEHOLDERS OF CWABS,)	
INC., ASSET-BACKED)	
CERTIFICATES, SERIES 2006-7,)	
)	
Respondent.)	
)	

APPEAL

From the Eighth Judicial District Court,
The Honorable Mark R. Denton, District Court Judge
District Court Case No. A-17-756215-C

SUPPLEMENTAL APPENDIX - VOLUME 6

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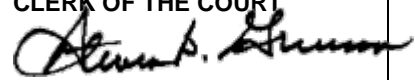
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Bank of New York, as Trustee for the
Certificateholders of CWABS, Inc., Asset-Backed
Certificates, Series 2006-7*

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS DEVELOPMENT GROUP, LLC,
a Nevada limited liability company,

Plaintiff,

vs.

DANIA V. HERNANDEZ, an individual; THE
BANK OF NEW YORK MELLON F/K/A THE
BANK OF NEW YORK, AS TRUSTEE FOR
THE CERTIFICATEHOLDERS OF CWABS,
INC., ASSET-BACKED CERTIFICATES,
SERIES 2006-7, a national banking association;
DOE individuals I through XX; and ROE
CORPORATIONS I through XX,

Defendants.

Case No.: A-17-756215-C
Dept. No.: XIII

STIPULATED FACTS FOR TRIAL

THE BANK OF NEW YORK MELLON F/K/A
THE BANK OF NEW YORK, AS TRUSTEE
FOR THE CERTIFICATEHOLDERS OF
CWABS, INC., ASSET-BACKED
CERTIFICATES, SERIES 2006-7,

Counterclaimant,

vs.

LAS VEGAS DEVELOPMENT GROUP, LLC,
a Nevada limited liability company,

Counterdefendant.

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

1 Las Vegas Development Group, LLC and The Bank of New York Mellon f/k/a The Bank of
2 New York, as Trustee for the Certificateholders of CWABS, Inc., Asset-Backed Certificates, Series
3 2006-7 (**BoNYM**) stipulate to the following facts, which require no additional evidence at trial.

4 1. On April 10, 2006 Dania Hernandez purchased the property located at 1524 Highfield
5 Court, Las Vegas, Nevada. Hernandez financed the purchase with a loan from Countrywide Home
6 Loans, Inc. in the amount of \$208,000.00. The loan was evidenced by a note and secured by a deed
7 of trust recorded against the property on April 19, 2006.

8 2. The deed of trust was assigned to BoNYM via an assignment of deed of trust.

9 3. The property is located in the Hidden Canyon Owners Association (**HOA**) and is
10 subject to the HOA's covenants, conditions, and restrictions (CC&Rs).

11 4. Hernandez failed to pay the HOA all amounts due to it. The HOA, through its agent,
12 Alessi & Koenig, LLC (**Alessi**) recorded a notice of delinquent assessment lien on June 3, 2009. Per
13 the notice, the amount due to HOA was \$571.85.

14 5. The HOA, through its agent Alessi, recorded a notice of lien on September 2, 2009.
15 The notice states the amount due to HOA was \$1,404.49.

16 6. On October 20, 2009, Miles Bauer Bergstrom & Winters LLP (**Miles Bauer**), as the
17 attorneys of MERS, as nominee BAC Home Loans Servcing, LP, as then-servicer of the loan,
18 requested a breakdown of the HOA arrears from HOA, through its agent Alessi, identifying the
19 superpriority amount allegedly owed to HOA.

20 7. On or about December 17, 2009, Alessi provided a facsimile cover letter and Resident
21 Transaction Detail. in response. According to the Resident Transaction Detail, at the time the lien was
22 recorded, Hernandez was delinquent for six months of assessments.

23 8. For 2009, the HOA charged assessments for common expenses of \$118 annually, or
24 \$9.83 monthly.

25 9. There were no charges for nuisance or abatement maintenance assessed against
26 Hernandez's account.

27 10. On January 21, 2010, Miles Bauer forwarded a letter, together with a check payable to
28 Alessi in the amount of \$88.50 to Alessi.

11. Alessi refused Miles Bauer's payment.

12. The HOA, through its agent Alessi, recorded a notice of trustee's sale on August 9, 2010. The notice states the amount due to HOA was \$2,862.23.

13. Alessi, on behalf of the HOA, foreclosed on the property on March 2, 2011. A foreclosure deed in favor of the HOA was recorded March 3, 2011.

14. On March 30, 2011, the HOA quitclaimed its interest to LVDG in exchange for \$4,500.

15. BoNYM retained appraiser Scott Dugan to perform a retroactive Fair Market Value Appraisal of the property at the time of the foreclosure sale. Mr. Dugan is qualified to render an opinion regarding the fair market value of the property on March 2, 2011. As Mr. Dugan opines in the expert report, the property's fair market value at the time of the HOA's sale was \$76,000.

Dated: February 27, 2020

ROGER CROTEAU & ASSOCIATES, LTD.

AKERMAN LLP

/s/ Roger P. Croteau

/s/ Rex D. Garner

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