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11/30/2020 4:14 PM
Steven D. Grierson
CLERK OF THE COURT

Nathan G. Kanute, Esq.
Nevada Bar No. 12413
Bob L. Olson, Esq.
Nevada Bar No. 3783
Kelly H. Dove
Nevada Bar No. 10569
David L. Edelblute, Esq.
Nevada Bar No. 14049
SNELL & WILMER L.L.P.
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Facsimile: (702) 784-5252
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Attorneys for Plaintiff Federal National Mortgage Association

Electronically Filed
Dec 07 2020 10:15 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

DISTRICT COURT

CLARK COUNTY, NEVADA

FEDERAL NATIONAL MORTGAGE ASSOCIATION, Plaintiff, vs. WESTLAND LIBERTY VILLAGE, LLC, and WESTLAND VILLAGE SQUARE, LLC, Defendants.	Case No. A-20-819412-B Dept No. 13 **NOTICE OF APPEAL**
AND ALL RELATED ACTIONS	

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Snell & Wilmer L.L.P.
LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
702.784.5200

Docket 82174 Document 2020-44241

Case Number: A-20-819412-B

NOTICE is hereby given that Plaintiff Federal National Mortgage Association ("Fannie Mae"), by and through its counsel, Snell & Wilmer L.L.P., appeals to the Supreme Court of Nevada from the Order Granting Defendants' Motion for Preliminary Injunction and Denying Application for Appointment of Receiver, issued on November 20, 2020, filed on November 20, 2020, and for which a Notice of Entry of Order was filed on November 24, 2020.

Dated: November 30, 2020

SNELL & WILMER L.L.P.

By: */s/ Kelly H. Dove*
Nathan G. Kanute, Esq. (NV Bar No. 12413)
Bob L. Olson, Esq. (NV Bar No. 3783)
Kelly H. Dove, Esq. (NV Bar No. 10569)
David L. Edelblute, Esq. (NV Bar No. 14049)

Attorneys for Plaintiff Federal National Mortgage Association

Snell & Wilmer L.L.P.
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702.784.5200

Snell & Wilmer
L.L.P.
LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
702.784.5200

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF APPEAL** by the method indicated:

_____ U. S. Mail

_____ U.S. Certified Mail

_____ Facsimile Transmission

_____ Federal Express

X Electronic Service

_____ E-mail

and addressed to the following:

John Benedict, Esq.
Law Offices of John Benedict
2190 E. Pebble Road, Suite 260
Las Vegas, Nevada 89123
John@BenedictLaw.com

Attorneys for
Defendants/Counterclaimants/Third Party
Plaintiffs Westland Liberty Village, LLC &
Westland Village Square LLC

DATED: November 30, 2020

/s/ Maricris Williams
An Employee of Snell & Wilmer L.L.P.

Electronically Filed
11/30/2020 4:14 PM
Steven D. Grierson
CLERK OF THE COURT

Nathan G. Kanute, Esq.
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Bob L. Olson, Esq.
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Attorneys for Plaintiff Federal National Mortgage Association

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702.784.5200

DISTRICT COURT

CLARK COUNTY, NEVADA

FEDERAL NATIONAL MORTGAGE ASSOCIATION, Plaintiff, vs. WESTLAND LIBERTY VILLAGE, LLC, and WESTLAND VILLAGE SQUARE, LLC, Defendants.	Case No. A-20-819412-B Dept No. 13 **CASE APPEAL STATEMENT**
AND ALL RELATED ACTIONS	

1. APPELLANTS FILING THIS CASE APPEAL STATEMENT:

Federal National Mortgage Association, referred hereto as Appellant.

2. JUDGE ISSUING THE JUDGMENT OR ORDER APPEALED FROM:

The Honorable Kerry Earley[1]

[1] The case has subsequently been transferred to the Honorable Mark Denton/ Department 13.

Case Number: A-20-819412-B

3. ALL PARTIES TO THE PROCEEDING IN THE DISTRICT COURT:

Plaintiff/Counter-Defendant: Federal National Mortgage Association

Defendants/Counter-Claimants/Third Party Plaintiffs: Westland Liberty Village, LLC and Westland Village Square, LLC

Third Party Defendant: Grandbridge Real Estate Capital LLC

4. ALL PARTIES TO THE APPEAL:

Appellant: Federal National Mortgage Association

Respondents: Westland Liberty Village, LLC and Westland Village Square, LLC

5. NAME OF COUNSEL AND WHOM THEY REPRESENT:

Counsel for Appellant, Federal National Mortgage Association:

Nathan G. Kanute, Esq.
Bob L. Olson, Esq.
David L. Edelblute, Esq.
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Telephone: (702) 784-5200

Counsel for Respondents, Westland Liberty Village, LLC and Westland Village Square, LLC:

John Benedict, Esq.
LAW OFFICES OF JOHN BENEDICT
2190 E. Pebble Road, Suite 260
Las Vegas, Nevada 89123
Telephone: (702) 333-3770

6. WHETHER APPELLANTS WERE REPRESENTED BY APPOINTED OR RETAINED COUNSEL IN THE DISTRICT COURT:

Federal National Mortgage Association was represented by retained counsel in the Eighth Judicial District Court action.

7. RETAINED COUNSEL ON APPEAL:

The Appellant is represented by retained counsel, the law firm of Snell & Wilmer L.L.P. on appeal:[2]

[2] In addition to the above-named counsel for Appellant.

Snell & Wilmer L.L.P.
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Las Vegas, Nevada 89169
702.784.5200

Kelly H. Dove
Nevada Bar No. 10569
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Las Vegas, NV 89169
Telephone: (702) 784-5200

8. WHETHER APPELLANT WAS GRANTED LEAVE TO PROCEED IN FORMA PAUPERIS, AND THE DATE OF ENTRY OF THE DISTRICT COURT ORDER GRANTING SUCH LEAVE:

Appellant has not moved for leave to file an appeal in forma pauperis.

9. INDICATE THE DATE THE PROCEEDINGS COMMENCED IN THE DISTRICT COURT:

This case commenced in the district court on August 12, 2020 with Federal National Mortgage Association filing a Complaint.

10. BRIEF DESCRIPTION OF THE NATURE OF THE ACTION AND RESULT:

Fannie Mae brought suit on August 12, 2020 against Respondents seeking the appointment of a receiver. In response, Respondents filed an opposition and countermotion for a temporary restraining order and preliminary injunction, opposing the appointment of a receiver and seeking to enjoin foreclosure proceedings. On November 20, 2020, the district court denied Appellant's application for the appointment of a receiver, and granted Respondents' request for injunctive relief.

11. PREVIOUS APPEAL OR WRIT PROCEEDING:

None.

12. CHILD CUSTODY:

This appeal does not involve child custody or visitation.

Snell & Wilmer L.L.P.
LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
702.784.5200

13. POSSIBILITY OF SETTLEMENT:

Settlement is possible.

Dated: November 30, 2020

SNELL & WILMER L.L.P.

By: */s/ Kelly H. Dove*

Nathan G. Kanute, Esq. (NV Bar No. 12413)
Bob L. Olson, Esq. (NV Bar No. 3783)
Kelly H. Dove, Esq. (NV Bar No. 10569)
David L. Edelblute, Esq. (NV Bar No. 14049)

Attorneys for Plaintiff Federal National Mortgage Association

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702.784.5200

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **CASE APPEAL STATEMENT** by the method indicated:

_____ U. S. Mail

_____ U.S. Certified Mail

_____ Facsimile Transmission

_____ Federal Express

X Electronic Service

_____ E-mail

and addressed to the following:

John Benedict, Esq.
Law Offices of John Benedict
2190 E. Pebble Road, Suite 260
Las Vegas, Nevada 89123
John@BenedictLaw.com

Attorneys for
Defendants/Counterclaimants/Third Party
Plaintiffs Westland Liberty Village, LLC &
Westland Village Square LLC

DATED: November 30, 2020

/s/ Maricris Williams
An Employee of Snell & Wilmer L.L.P.

DISTRICT COURT

CASE SUMMARY

CASE NO. A-20-819412-B

Federal National Mortgage, Plaintiff(s)
vs.
Westland Liberty Village, LLC, Defendant(s)

§
§
§
§
§
§
§

Location: **Department 13**
Judicial Officer: **Denton, Mark R.**
Filed on: **08/12/2020**
Case Number History: **A-20-819412-C**
Cross-Reference Case Number: **A819412**

CASE INFORMATION

Case Type: **Other Business Court Matters**

Case Flags: **Appealed to Supreme Court**
Business Court
Jury Demand Filed
Automatically Exempt from Arbitration

DATE — CASE ASSIGNMENT

Current Case Assignment

Case Number	A-20-819412-B
Court	Department 13
Date Assigned	10/22/2020
Judicial Officer	Denton, Mark R.

PARTY INFORMATION

		Lead Attorneys
Plaintiff	**Federal National Mortgage**	**Kanute, Nathan G.** *Retained* 775-785-5419(W)
Defendant	**Westland Liberty Village, LLC**	**Benedict, John G** *Retained* 702-333-3770(W)
	Westland Village Square, LLC	**Benedict, John G** *Retained* 702-333-3770(W)
Counter Claimant	**Westland Liberty Village, LLC**	**Benedict, John G** *Retained* 702-333-3770(W)
	Westland Village Square, LLC	**Benedict, John G** *Retained* 702-333-3770(W)
Counter Defendant	**Federal National Mortgage**	**Kanute, Nathan G.** *Retained* 775-785-5419(W)
Third Party Defendant	**Grandbridge Real Estate Capital LLC**	**Went, Joseph G.** *Retained* 702-669-4600(W)
Third Party Plaintiff	**Westland Liberty Village, LLC**	**Benedict, John G** *Retained* 702-333-3770(W)
	Westland Village Square, LLC	**Benedict, John G** *Retained* 702-333-3770(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
08/12/2020	Complaint Filed By: Counter Defendant Federal National Mortgage *Verified Complaint*	
08/12/2020	Appendix Filed By: Counter Defendant Federal National Mortgage *Appendix of Exhibits to Verified Complaint*	
08/12/2020	Application Filed By: Counter Defendant Federal National Mortgage *Application for Appointment of Receiver on Order Shortening Time - Hearing Requested*	
08/12/2020	Initial Appearance Fee Disclosure Filed By: Counter Defendant Federal National Mortgage *Federal National Mortgage Association's Initial Appearance Fee Disclosures*	
08/12/2020	Summons Electronically Issued - Service Pending Party: Counter Defendant Federal National Mortgage *Summons as to Westland Liberty Village, LLC*	
08/12/2020	Summons Electronically Issued - Service Pending Party: Counter Defendant Federal National Mortgage *Summons as to Westland Village Square, LLC*	
08/13/2020	Clerk's Notice of Hearing *Notice of Hearing*	
08/14/2020	Clerk's Notice of Nonconforming Document *Clerk's Notice of Nonconforming Document*	
08/31/2020	Answer Filed By: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC *Answer to Plaintiff's Complaint, Counterclaim and Third Party Complaint*	
08/31/2020	Summons Filed by: Third Party Plaintiff Westland Liberty Village, LLC *Summons for Third Party Complaint*	
08/31/2020	Initial Appearance Fee Disclosure Filed By: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC *Initial Appearance Fee Disclosure (NRS Chapter 19)*	
08/31/2020	Opposition and Countermotion Filed By: Third Party Plaintiff Westland Liberty Village, LLC *Opposition to Plaintiff's Application for Appointment of Receiver on Order Shortening Time; Counter-Motion for Temporary Restraining Order and/or Preliminary Injunction; Memorandum of Points and Authorities*	
08/31/2020	Affidavit Filed By: Third Party Plaintiff Westland Liberty Village, LLC *Affidavit of Yakoov Greenspan in Opposition to Application to Appoint Receiver and in*	

Support of Defendant's Motion for Temporary Restraining Order and Motion for Preliminary Injunction

09/01/2020 Exhibits
Filed By: Third Party Plaintiff Westland Liberty Village, LLC
Defendants / Counterclaimants /Third Party Plaintiffs Exhibits A Through T Filed in Support of Answer to Plaintiff s Complaint, Counterclaim and Third Party Complaint; and In Support of Opposition to Plaintiff's Application for Appointment of Receiver on Order Shortening Time; and In Support of Countermotion for Temporary Restraining Order and/or Preliminary Injunction

09/01/2020 Exhibits
Filed By: Third Party Plaintiff Westland Liberty Village, LLC
Defendants / Counterclaimants /Third Party Plaintiffs Exhibit 2 Filed In Support of Answer to Plaintiff S Complaint, Counterclaim, and Third Party Complaint; and In Support of Opposition to Plaintiff S Application for Appointment of Receiver on Order Shortening Time; and In Support Of Countermotion for Temporary Restraining Order and/or Preliminary Injunction

09/03/2020 Summons Electronically Issued - Service Pending
Party: Third Party Plaintiff Westland Liberty Village, LLC
Summons

09/04/2020 Filing Fee Remittance
Filed By: Third Party Plaintiff Westland Liberty Village, LLC
Filing Fee Remittance

09/14/2020 Reply in Support
Filed By: Counter Defendant Federal National Mortgage
Federal National Mortgage Association's Reply in Support of Application for Appointment of Receiver on Order Shortening Time and Opposition to Counter-Motion for Temporary Restraining Order and/or Preliminary Injunction

09/16/2020 Affidavit of Service
Filed By: Third Party Plaintiff Westland Liberty Village, LLC
Affidavit of Service on Grandbridge Real Estate Capital, LLC

09/17/2020 Stipulation and Order
Filed by: Counter Defendant Federal National Mortgage
Stipulation and Order to Extend Federal National Mortgage Association's Deadline to Respond to Counterclaims

09/17/2020 Stipulation and Order
Filed by: Counter Defendant Federal National Mortgage
Stipulation and Order to Extend Defendants' Deadline to File Reply in Support of Countermotion for Temporary Restraining Order and/or Preliminary Injunction

09/17/2020 Notice of Entry of Order
Filed By: Counter Defendant Federal National Mortgage
Notice of Entry of Stipulation and Order to Extend Federal National Mortgage Association's Deadline to Respond to Defendants' Counterclaims

09/17/2020 Notice of Entry of Order
Filed By: Counter Defendant Federal National Mortgage
Notice of Entry of Stipulation and Order to Extend Defendants' Deadline to File Reply In Support of Countermotion for Temporary Restraining Order and/or Preliminary Injunction

09/18/2020 Notice of Entry of Stipulation and Order
Filed By: Third Party Plaintiff Westland Liberty Village, LLC
Notice of Entry of Stipulation and Order

09/18/2020 Affidavit
Filed By: Third Party Plaintiff Westland Liberty Village, LLC
Affidavit of Shimon Greenspan In Support of Counterclaimant's Motion for Temporary Restraining Order and Motion for Preliminary Injunction

09/18/2020 Affidavit
Supplemental Affidavit of Yakoov Greenspan In Support of Counterclaimant's Motion for Temporary Restraining Order and Motion for Preliminary Injunction

09/18/2020 Reply to Opposition
Filed by: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC
Reply in Support of Counter-Motion for Temporary Restraining Order and/or Preliminary Injunction

10/13/2020 **Motion** (9:00 AM) (Judicial Officer: Earley, Kerry)
Application for Appointment of Receiver on Order Shortening Time
Denied;
Denied

10/13/2020 **Opposition and Countermotion** (9:00 AM) (Judicial Officer: Earley, Kerry)
Defendant's Opposition to Plaintiff's Application for Appointment of Receiver on Order Shortening Time; Counter-Motion for Temporary Restraining Order and/or Preliminary Injunction; Memorandum of Points and Authorities
Granted;
Granted

10/13/2020 **All Pending Motions** (9:00 AM) (Judicial Officer: Earley, Kerry)
Matter Heard;
Matter Heard

10/19/2020 Recorders Transcript of Hearing
Transcript of Proceedings; October 13, 2020: Application for Appintment of Receiver on OST; Defs' Opp to Pltf's Appl for Appt. of receiver on OST;

10/19/2020 Motion to Dismiss
Filed By: Counter Defendant Federal National Mortgage
Motion to Dismiss Defendants' Counterclaims

10/19/2020 Motion to Strike
Filed By: Counter Defendant Federal National Mortgage
Motion to Strike Defendants' Affirmative Defenses

10/19/2020 Request to Transfer to Business Court
Filed by: Third Party Defendant Grandbridge Real Estate Capital LLC
Request for Assignment to Business Court

10/19/2020 Answer
Filed By: Third Party Defendant Grandbridge Real Estate Capital LLC
Answer to Third Party Complaint

10/20/2020

	Clerk's Notice of Hearing *Notice of Hearing*
10/21/2020	Demand for Jury Trial Filed By: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC *Demand for Jury Trial*
10/22/2020	Notice of Department Reassignment *Notice of Department Reassignment*
10/30/2020	Motion to Strike Filed By: Counter Defendant Federal National Mortgage *Motion to Strike Defendants' Demand for Jury Trial*
11/02/2020	Clerk's Notice of Hearing *Notice of Hearing*
11/02/2020	Opposition Filed By: Third Party Plaintiff Westland Liberty Village, LLC *OPPOSITION TO PLAINTIFF S MOTION TO DISMISS DEFENDANTS COUNTERCLAIMS; MEMORANDUM OF POINTS AND AUTHORITIE*
11/02/2020	Opposition Filed By: Third Party Plaintiff Westland Liberty Village, LLC *OPPOSITION TO PLAINTIFF S MOTION TO STRIKE DEFENDANTS' AFFIRMATIVE DEFENSES; MEMORANDUM OF POINTS AND AUTHORITIE*
11/06/2020	Joinder Filed By: Third Party Defendant Grandbridge Real Estate Capital LLC *Third Party Defendant Grandbridge Real Estate Capital, LLC's Joinder to Motion to Strike Defendants' Demand for Jury Trial*
11/09/2020	Joint Case Conference Report Filed By: Counter Defendant Federal National Mortgage *JOINT CASE CONFERENCE REPORT*
11/13/2020	Opposition Filed By: Third Party Plaintiff Westland Liberty Village, LLC *Opposition to Plaintiff's Motion to Strike Defendants' Jury Demand*
11/20/2020	Motion to Associate Counsel Filed By: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC *Motion to Associate Counsel*
11/20/2020	Stipulation and Order *Stipulation and Order to Continue Hearing on Motion to Strike Defendants' Demand for Jury Trial*
11/20/2020	Order *Order Granting Defendants' Preliminary Injunction and Denying Plaintiff's Application for Receiver*

11/20/2020	Notice of Entry of Stipulation and Order Filed By: Counter Defendant Federal National Mortgage *NOTICE OF ENTRY OF STIPULATION AND ORDER TO CONTINUE HEARING ON MOTION TO STRIKE DEFENDANTS' DEMAND FOR JURY TRIAL*
11/24/2020	Clerk's Notice of Nonconforming Document *Clerk's Notice of Nonconforming Document*
11/24/2020	Motion to Associate Counsel Filed By: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC *Amended Motion to Associate Counsel*
11/24/2020	Notice of Entry Filed By: Third Party Plaintiff Westland Liberty Village, LLC *NOTICE OF ENTRY OF ORDER ORDER GRANTING DEFENDANTS MOTION FOR PRELIMINARY INJUNCTION AND DENYING APPLICATION FOR APPOINTMENT OF RECEIVER*
11/25/2020	Objection Filed By: Counter Defendant Federal National Mortgage *LIMITED OBJECTION TO DEFENDANTS' AMENDED MOTION TO ASSOCIATE COUNSEL AND RESERVATION OF RIGHTS*
11/30/2020	Clerk's Notice of Hearing *Notice of Hearing*
11/30/2020	Notice of Appeal Filed By: Counter Defendant Federal National Mortgage *Notice of Appeal*
11/30/2020	Case Appeal Statement Filed By: Counter Defendant Federal National Mortgage *Case Appeal Statement*
12/01/2020	Notice of Deposit Filed By: Third Party Plaintiff Westland Liberty Village, LLC *Notice of Deposit of Bond Re: Preliminary Injunction*
12/10/2020	**Motion to Strike** (9:00 AM) (Judicial Officer: Denton, Mark R.) *Plaintiff's Motion to Strike Defendants' Demand for Jury Trial*
12/10/2020	**Joinder** (9:00 AM) (Judicial Officer: Denton, Mark R.) *Third Party Defendant Grandbridge Real Estate Capital, LLC's Joinder to Motion to Strike Defendants' Demand for Jury Trial*
01/07/2021	**Motion to Associate Counsel** (9:00 AM) (Judicial Officer: Denton, Mark R.) *Defendants/Counterclaimants/ Third Party Plaintiffs' Amended Motion to Associate Counsel*
01/19/2021	**Motion to Dismiss** (9:00 AM) (Judicial Officer: Denton, Mark R.) *Plaintiff's Motion to Dismiss Defendants' Counterclaims*
01/19/2021	**Motion to Strike** (9:00 AM) (Judicial Officer: Denton, Mark R.) *Plaintiff's Motion to Strike Defendants' Affirmative Defenses*

DATE	FINANCIAL INFORMATION

Third Party Plaintiff Westland Liberty Village, LLC	
Total Charges	388.00
Total Payments and Credits	388.00
Balance Due as of 12/2/2020	**0.00**
Counter Defendant Federal National Mortgage	
Total Charges	294.00
Total Payments and Credits	294.00
Balance Due as of 12/2/2020	**0.00**
Third Party Defendant Grandbridge Real Estate Capital LLC	
Total Charges	1,267.00
Total Payments and Credits	1,267.00
Balance Due as of 12/2/2020	**0.00**
Third Party Plaintiff Westland Liberty Village, LLC	
Injunction Balance as of 12/2/2020	**1,000.00**

DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada

Case No. *(Assigned by Clerk's Office)*

CASE NO: A-20-819412-C
Department 4

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
FEDERAL NATIONAL MORTGAGE ASSOCIATION	WESTLAND LIBERTY VILLAGE LLC
	WESTLAND VILLAGE SQUARE LLC
Attorney (name/address/phone):	**Attorney (name/address/phone):**
NATHAN G. KANUTE	
DAVID L. EDELBLUTE	
SNELL & WILMER L.L.P.	
50 W LIBERTY ST STE 510 RENO NV 89501-1961	

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

Real Property

Landlord/Tenant
- [ ] Unlawful Detainer
- [ ] Other Landlord/Tenant

Title to Property
- [ ] Judicial Foreclosure
- [ ] Other Title to Property

Other Real Property
- [ ] Condemnation/Eminent Domain
- [x] Other Real Property

Torts

Negligence
- [ ] Auto
- [ ] Premises Liability
- [ ] Other Negligence

Malpractice
- [ ] Medical/Dental
- [ ] Legal
- [ ] Accounting
- [ ] Other Malpractice

Other Torts
- [ ] Product Liability
- [ ] Intentional Misconduct
- [ ] Employment Tort
- [ ] Insurance Tort
- [ ] Other Tort

Probate

Probate *(select case type and estate value)*
- [ ] Summary Administration
- [ ] General Administration
- [ ] Special Administration
- [ ] Set Aside
- [ ] Trust/Conservatorship
- [ ] Other Probate

Estate Value
- [ ] Over $200,000
- [ ] Between $100,000 and $200,000
- [ ] Under $100,000 or Unknown
- [ ] Under $2,500

Construction Defect & Contract

Construction Defect
- [ ] Chapter 40
- [ ] Other Construction Defect

Contract Case
- [ ] Uniform Commercial Code
- [ ] Building and Construction
- [ ] Insurance Carrier
- [ ] Commercial Instrument
- [ ] Collection of Accounts
- [ ] Employment Contract
- [ ] Other Contract

Judicial Review/Appeal

Judicial Review
- [ ] Foreclosure Mediation Case
- [ ] Petition to Seal Records
- [ ] Mental Competency

Nevada State Agency Appeal
- [ ] Department of Motor Vehicle
- [ ] Worker's Compensation
- [ ] Other Nevada State Agency

Appeal Other
- [ ] Appeal from Lower Court
- [ ] Other Judicial Review/Appeal

Civil Writ

Civil Writ
- [ ] Writ of Habeas Corpus
- [ ] Writ of Mandamus
- [ ] Writ of Quo Warrant
- [ ] Writ of Prohibition
- [ ] Other Civil Writ

Other Civil Filing

Other Civil Filing
- [ ] Compromise of Minor's Claim
- [ ] Foreign Judgment
- [ ] Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

8/12/2020
Date


Signature of initiating party or representative

See other side for family-related case filings.

Electronically Filed
11/20/2020 4:09 PM
CLERK OF THE COURT

ORDR

JOHN BENEDICT, ESQ.
Nevada Bar No. 005581
LAW OFFICES OF JOHN BENEDICT
2190 E. Pebble Road, Suite 260
Las Vegas, NV 89123
Telephone: (702) 333-3770
Facsimile: (702) 361-3685
E-Mail: John@BenedictLaw.com

Attorneys for Defendants/Counterclaimants/ Third Party Plaintiffs Westland Liberty Village, LLC & Westland Village Square LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

FEDERAL NATIONAL MORTGAGE ASSOCIATION, Plaintiff, vs. WESTLAND LIBERTY VILLAGE, LLC, a Nevada Limited Liability Company; and WESTLAND VILLAGE SQUARE, LLC, a Nevada Limited Liability Company Defendants.	CASE NO. A-20-819412-C DEPT NO. 4 **ORDER GRANTING DEFENDANTS' MOTION FOR PRELIMINARY INJUNCTION AND DENYING APPLICATION FOR APPOINTMENT OF RECEIVER** Hearing Date: October 13, 2020 Hearing Time: 10:30 a.m.
AND ALL RELATED ACTIONS	

Defendants' Counter-Motion for a Preliminary Injunction having come before the Court on October 13, 2020, and John Benedict, Esq. appearing on behalf of Defendants Westland Liberty Village LLC and Westland Village Square LLC, and Bob Olson, Esq. appearing on behalf of Plaintiff Federal National Mortgage Association.

Pursuant to Westland Liberty Village LLC's and Westland Village Square LLC's (in combination "Westland") Counter-Motion for a Temporary Restraining Order and/or Preliminary Injunction ("Motion"), the Affidavit of Yanki Greenspan, the Affidavit of Shimon Greenspan,

Westland's Counterclaim and Third Party Complaint, and the Court having reviewed the pleadings and papers on file herein, including any filed by Plaintiff Federal National Mortgage Association ("Fannie Mae"), as well as Fannie Mae's Application for Appointment of Receiver and supporting papers (the "Application"), and having heard the arguments presented by Counsel, after considering and relying upon only admissible evidence, this Court in part applying its discretion including weighing the credibility of the declarations and other proof submitted in support of and in opposition to the Motions, enters the following findings of fact, conclusions of law, and Orders the following:

FINDINGS OF FACT

1. Fannie Mae admits conducting a property condition assessment at the multi-family apartment communities owned by Westland and located at 4870 Nellis Oasis Lane, Las Vegas, NV 89115 [Assessor's Parcel Nos. 140-08-710-161, 140-08-711-273 and 140-08-712-289] (the "Liberty Village Property") and 5025 Nellis Oasis Lane, Las Vegas, NV 89115 [Assessor's Parcel Nos. 140-08-702-002 and 140-08-702-003] (the "Village Square Property," or in combination the "Properties") in September 2018.

2. Westland has submitted evidence that it has spent over $1.7 million in capital improvements since the property condition assessment was conducted, $3.5 million in capital improvements since the Properties were purchased, $1,573,000 in security costs at the Properties, that it employs an on-site staff of 32 employees, all of which support that the condition of the Properties has not deteriorated.

3. Westland submitted 2300 pages of work orders and related documents for renovations it performed on vacant units from September 2019 through June 2020, which further supports that the condition of the Properties has not deteriorated.

4. Statements from unbiased third-parties, including the Office of the Clark County Commissioner and the Nevada State Apartment Association, support that the condition of the Properties has not deteriorated.

5. The Court finds Westland has submitted substantial evidence that no deterioration of the condition of the Liberty Village Property and Village Square Property has occurred.

6. The two loan agreements both contain terms, including in Section 6.03(c), requiring a showing of deterioration in order to perform a property condition assessment or take further action related to the Repair Reserve or Replacement Reserve accounts. Without Fannie Mae showing there was deterioration at the Properties, there can be no default by Westland's not placing additional funds into those two accounts. Fannie Mae has not shown deterioration of the Properties. In fact, Westland has shown the opposite at this early stage, even without any formal discovery. The lack of demonstrated deterioration is enough to warrant a preliminary injunction as set forth herein.

7. Fannie Mae admits that in August 2018 when the loan agreement for the Liberty Village Property was assumed the parties agreed to a combined total of $105,032.03 for the Repair Reserve and Replacement Reserve, which was fully funded on the date of the date the loan was assumed, plus an additional monthly Replacement Reserve payment of $18,600.00.

8. Fannie Mae admits that in August 2018 when the loan agreement for the Village Square Property was assumed the parties agreed to a combined total of $38,287.25 for the Repair Reserve and Replacement Reserve, which was fully funded on the date of the date the loan was assumed, plus additional monthly Replacement Reserve payments of $10,259.08.

9. The undisputed facts establish that Westland paid $18,600.00 each month for the Liberty Village Replacement Reserve and $10,259.08 each month for the Village Square Replacement Reserve consistent with the schedules to the loan agreements as executed in August 2018, as well as the principal and interest payments that were required by the loan agreements.

10. Fannie Mae admits that its servicer, Grandbridge Real Estate Capital, LLC ("Grandbridge") forwarded a Notice of Demand, dated October 18, 2019, on its behalf that sought a combined $2.85 million additional reserve deposit from Westland for the Liberty Village Property and Village Square Property, which necessarily was based on a modification of the reserve amounts listed in the loan agreements.

11. By relying on the Notice of Demand, Fannie Mae admits that Grandbridge transferred all funds it held on Westland's behalf for each Property from the interest bearing Replacement Reserve account to the non-interest bearing Repair Reserve account.

12. Fannie Mae admits forwarding a Notice of Default and Acceleration of Note, dated December 17, 2019, which sought to hold Westland in default under the loan agreements that were assumed with Fannie Mae for not depositing the additional $2.85 million Fannie Mae demanded, sought acceleration of the note for each Property, and sought not only the full principal balance but also default interest and costs. Fannie Mae further admits that, due to the asserted default, it holds $1,000,000.00 in insurance proceeds from work Westland had performed, and paid for, at the Properties. Based solely on that purported default, Fannie Mae has refused to turn those funds over to Westland.

13. Fannie Mae admits forwarding a Demand and Notice Pursuant to NRS 107A.270, dated December 17, 2019, which sought to revoke Westland's license to collect rents at the Properties, which is based solely on the purported default arising from not depositing an additional $2.85 million into reserves.

14. Fannie Mae admits pursuing a foreclose against Westland's Properties by filing a Notice of Default and Election to Sell under Deed of Trust, dated July 8, 2020, and taking actions in furtherance of foreclosure against each of the Properties, which is based solely on the purported default arising from not depositing an additional $2.85 million into reserves.

CONCLUSIONS OF LAW

1. NRCP 65(b) provides the Court with the authority to issue a preliminary injunction;

2. NRS 33.010 provides that an injunction may be granted in the following cases:

   a. "When it shall appear by the [pleadings] that the [requesting party] is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of an act complained of, either for a limited period or perpetually."

b. "When it shall appear by the complaint or affidavit that the commission or continuance of some act, during the litigation, would produce great or irreparable injury to the [requesting party]."

c. "When it shall appear, during the litigation, that the [non-requesting party] is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the [requesting parties'] rights respecting the subject of the action, and tending to render the judgment ineffectual."

3. A preliminary injunction is available upon a showing that the party seeking the injunction enjoys a "reasonable probability of success on the merits" and that the non-moving party's "conduct, if allowed to continue, will result in irreparable harm for which compensatory damages is an inadequate remedy." *Sobol v. Capital Management Consultants, Inc.*, 102 Nev. 444, 446 (1986); *Clark County School Dist. v. Buchanan*, 112 Nev. 1146, 924 P.2d 716, 719 (1996). The Court "may also weigh the public interest and relative hardships of the parties ..." *Id*. (*citing Pickett v. Commanche Construction Inc.*, 108 Nev. 422, 426, 836 P.2d 42, 44 (1992)).

4. The ultimate purpose of the preliminary injunction is to preserve the status quo so as to prevent irreparable harm. *Dixon v. Thatcher et al.*, 103 Nev. 414, 415, 742 P2d 1029 (1987).

5. Westland has shown a reasonable probability of success on the merits for the relief it seeks via Counterclaim in this case. This element is thus satisfied in Westland's Counter-Motion for a Preliminary Injunction because Fannie Mae has failed to establish that any default has occurred, and even viewing the evidence and arguments Fannie Mae presented in the best light for it, at best for Fannie Mae there are substantial factual disputes related to whether any default occurred. Fannie Mae's papers admit pursuing a foreclose against Westland's Properties by filing a Notice of Default and Intent to Sell, and such actions may amount to a breach of contract, failure to service the loan in good faith, and may support the other claims and damages in Westland's Counterclaim.

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6. Westland would suffer irreparable harm to its interests in real property, to its personnel, and to an ongoing business in the absence of such an order to enjoin Fannie Mae's actions. First, real property is unique. Second, Westland has invested millions of dollars into the Properties, has substantial equity in them, and has significantly improved the living conditions at the Properties. Westland has been recognized by independent third parties for these successes, including lowering the crime rate at the Properties. Specifically, Westland has received various commendations from the Las Vegas Metropolitan Police Department, housing authorities, and the local governments. Third, Westland has invested heavily in personnel for the Properties, including paying in excess of $1.5M for salaries and related expenses for security personnel. All told, Westland has over thirty people working at the Property, and part of the irreparable harm will be those people losing their jobs if Fannie Mae's foreclosure is allowed to proceed or if the Court appoints a receiver.

7. Based upon the above, and all evidence and documentation submitted, and here specifically applying the Court's discretion, the prejudice to Westland is much greater than the prejudice to Fannie Mae if no injunction is issued in this case.

8. Issuance of a preliminary injunction as requested by Westland would preserve the status quo until this matter is fully resolved on the merits.

9. Westland has met their burden of proof to support this Preliminary Injunction through competent evidence.

10. Westland has made a substantial investment in the collateral securing the loan and continue to maintain substantial funds within the Repair Escrow Account and Replacement Escrow Account that render the need for a bond for a preliminary injunction to be de minimus.

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11. Fannie Mae's has not shown good cause for its Application for Appointment of a Receiver because it has not carried its burden to show any default occurred and based on the lack of evidence of irreparable harm or substantial loss to collateral to Fannie Mae.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Defendant's Countermotion for a Preliminary Injunction is **GRANTED**;

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that Plaintiff's Application for Appointment of a Receiver is **DENIED**;

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that:

(1) Fannie Mae, including, without limitation, Fannie Mae's servicers, agents, affiliates, representatives, officers, managers, directors, shareholders, members, partners, trustees, and other persons exercising or having control over the affairs of Fannie Mae, (collectively the "Enjoined Parties") are enjoined from taking any and all actions to foreclose or continue the foreclosure process upon Westland's Properties, and may not conduct any foreclosure proceeding or foreclosure sale on Properties until further order of this Court;

(2) The Enjoined Parties may not continue to maintain the Liberty Village Notice of Default and Election to Sell under Deed of Trust, dated July 8, 2020, which shall immediately be removed from the title of the Liberty Village Property;

(3) The Enjoined Parties may not continue to maintain the Village Square Notice of Default and Election to Sell under Deed of Trust, dated July 8, 2020, which shall immediately be removed from the title of the Village Square Property;

(4) The Enjoined Parties may not interfere with Westland's enjoyment of the Properties pending a final determination of the rights and obligations of the parties pursuant to the Multifamily Loan and Security Agreement entered by and between Lenders and Westland on August 29, 2018;

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(5) Fannie Mae's Application to appoint a receiver is denied, and the Enjoined Parties are further enjoined from and may not do the following acts:

a) appoint a receiver;

b) take possession of any real or personal property, which prohibition extends to both tangible or intangible property, including, without limitation, all land, buildings and structures, leases, rents, fixtures, and movable personal property that may be identified as "Leases," "Rents" or "Mortgaged Property" in any "Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing," located at or related to the Village Square Property and Liberty Village Property (hereinafter the "Property") referenced in both parties pleadings;

c) obtain possession of, exercise control over, enforce a judgment, enforce a lien, foreclose, enforce a Deed of Trust, or otherwise take any action against the Property, without specific permission from or a further determination of this Court;

d) interfere with Westland, directly or indirectly, in the management and operation of the Property, the collection of rents derived from the Property, or do any act which will, or which will tend to, impair, defeat, divert, prevent, or prejudice Westland's use or preservation of the Property (including the leases, rents and reserve-escrow accounts related thereto) or the interest of Westland in the Property and in said leases, rents, and reserve-escrow accounts;

e) fail to turn over to Westland the monthly debt service invoices for the Property, which have been withheld between February 2020 and present, and on a going forward basis, Fannie Mae or its servicer will forward the monthly statements Fannie Mae's servicers produce for any borrower who is not in default;

f) fail to process loan payments consistent with the terms of the loan agreement, including that Fannie Mae, or its servicer, will return to the ordinary practice of auto-debiting Westland's account for the amount of the non-default normal monthly debt

service payment each month;

g) retain possession of any funds paid in excess of the non-default monthly debt service payments, which excess funds Westland paid between February 2020 and the present based on the refusal of Fannie Mae's servicer to produce monthly statements to Westland;

h) fail to disburse or turn over to Westland any funds currently held or initially held in the Restoration Reserve Account, which funds were earmarked for the repair of the fire-damaged buildings, Buildings 3426 and 3517, regardless of whether Fannie Mae continues to maintain those funds in the same account or has transferred those funds to another account;

i) continue to improperly maintain the funds designated to be held in the interest bearing Replacement Reserve Account for each of the Properties in the non-interest bearing Repair Reserve Account for each of the Properties, to restore any balance that has already been transferred, and to credit the Replacement Reserve Account for the interest that Westland would have earned;

j) continue to refuse to respond to Reserve Disbursement Requests for more than 10 days, or to fail to disburse funds held in the Repair Reserve and Replacement Reserve escrow accounts in response to requests submitted consistent with the terms of the loan agreements;

k) continue to maintain the Notice of Demand, dated October 18, 2019, which will be held to be retracted and stricken;

l) continue to maintain the Notice of Default and Acceleration of Note, dated December 17, 2019, which will be deemed retracted and stricken;

m) continue to maintain the Demand and Notice Pursuant to NRS 107A.270, dated December 17, 2019, which will be deemed retracted and stricken;

n) otherwise displace Westland from the operation or management of the Property;

o) take any adverse action against any Westland entity in relation to other loans, discriminate against or blacklist any Westland entity on new loan or loan refinancing applications, including by placing Westland on "a-check," adding a fee to any loan quoted or adding an interest rate surcharge to such applications, based on the purported default that arose from failing to deposit the additional $2.85 million into escrow as requested.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the bond amount related to this preliminary injunction shall be $1,000.00 for Defendants, which Defendants may also meet by depositing $1000.00 cash with this Court.

Dated: November ___, 2020

Dated this 20th day of November, 2020

IT IS SO ORDERED.

The Honorable Kerry Earley
DISTRICT COURT JUDGE

Kerry Earley
District Court Judge

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Agreed as to Form and Content:

SNELL & WILMER L.L.P.

By: ***DOES NOT APPROVE***
Nathan G. Kanute, Esq.
Bob L. Olson, Esq.
David L. Edelblute, Esq.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

Attorneys for Plaintiff Federal National Mortgage Association

LAW OFFICES OF JOHN BENEDICT

By: ***/s/ John Benedict***
John Benedict, Esq.
2190 E. Pebble Road, Suite 260
Las Vegas, Nevada 89123

Attorneys for Defendants/Counterclaimants/Third Party Plaintiffs Westland Liberty Village, LLC & Westland Village Square LLC

Respectfully Submitted:

Dated: November 16, 2020

LAW OFFICES OF JOHN BENEDICT

By: ***/s/ John Benedict***
John Benedict, Esq.
2190 E. Pebble Road, Suite 260
Las Vegas, Nevada 89123

Attorneys for Defendants/Counterclaimants/Third Party Plaintiffs Westland Liberty Village, LLC & Westland Village Square LLC

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Federal National Mortgage, Plaintiff(s) vs. Westland Liberty Village, LLC, Defendant(s)	CASE NO: A-20-819412-B DEPT. NO. Department 13

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 11/20/2020

Joseph Went	jgwent@hollandhart.com
Sydney Gambee	srgambee@hollandhart.com
Brian Dziminski	brian@dziminskilaw.com
John Benedict	john@benedictlaw.com
Lara Taylor	ljtaylor@swlaw.com
Nathan Kanute	nkanute@swlaw.com
Mary Full	mfull@swlaw.com
Docket Docket	docket_las@swlaw.com
Bob Olson	bolson@swlaw.com
Jacqueline Gaudie	jacqueline@benedictlaw.com

Joyce Heilich	jeheilich@hollandhart.com
D'Andrea Dunn	ddunn@swlaw.com
Charlie Bowman	cabowman@hollandhart.com
Angelyn Cayton	Angelyn@benedictlaw.com
Office Admin	office.admin@benedictlaw.com
David Edelblute	dedelblute@swlaw.com

If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 11/23/2020

John Benedict	2190 E. Pebble Road Suite 260 Las Vegas, NV, 89123

Electronically Filed
11/24/2020 4:19 PM
Steven D. Grierson
CLERK OF THE COURT

NEO
LAW OFFICES OF JOHN BENEDICT
John Benedict, Esq.
Nevada Bar No. 005581
2190 E. Pebble Road, Suite 260
Las Vegas, Nevada 89123
Telephone: (702) 333-3770
Facsimile: (702) 361-3685
Email: John@Benedictlaw.com
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

****

FEDERAL NATIONAL MORTGAGE ASSOCIATION, Plaintiffs, vs. WESTLAND LIBERTY VILLAGE, LLC and WESTLAND VILLAGE SQUARE, LLC, Defendants, AND ALL RELATED ACTIONS	CASE NO.: A-20-819412-C DEPT. NO.: 4 **NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that an **ORDER GRANTING DEFENDANTS' MOTION FOR PRELIMINARY INJUNCTION AND DENYING APPLICATION FOR APPOINTMENT OF RECEIVER**,

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was entered in the above-entitled matter on November 20, 2020. A true and correct copy is attached hereto**.**

DATED this_24th_ day of November, 2020.

LAW OFFICES OF JOHN BENEDICT

By: __/s/ John Benedict_____
John Benedict, Esq. (SBN 5581)
2190 East Pebble Road, Suite 260
Las Vegas, Nevada 89123
Email: John@Benedictlaw.com
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this_24th_ day of November, 2020, a copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS' MOTION FOR PRELIMINARY INJUNCTION AND DENYING APPLICATION FOR APPOINTMENT OF RECEIVER** were served on the parties listed below via electronic service through Odyssey to the following:

Bob Olson, Esq.
Nathan G. Kanute, Esq.
David L. Edelblute, Esq.
Snell & Wilmer L.L.P.
3883 Howard Hughes Parkway, Suite 110
Las Vegas, Nevada 89169
Email: nkanute@swlaw.com; dedelblute@swlaw.com
Attorneys for Plaintiffs

Joseph G. Went
Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Email: jgwent@hollandhart.com
Attorney for Third Party Defendant

__/s/ Igor Makarov_____
An Employee of the Law Offices of John Benedict

ELECTRONICALLY SERVED
11/20/2020 4:09 PM

Electronically Filed
11/20/2020 4:09 PM
CLERK OF THE COURT

ORDR
JOHN BENEDICT, ESQ.
Nevada Bar No. 005581
LAW OFFICES OF JOHN BENEDICT
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Las Vegas, NV 89123
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E-Mail: John@BenedictLaw.com

Attorneys for Defendants/Counterclaimants/ Third Party Plaintiffs Westland Liberty Village, LLC & Westland Village Square LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

FEDERAL NATIONAL MORTGAGE ASSOCIATION, Plaintiff, vs. WESTLAND LIBERTY VILLAGE, LLC, a Nevada Limited Liability Company; and WESTLAND VILLAGE SQUARE, LLC, a Nevada Limited Liability Company Defendants.	CASE NO. A-20-819412-C DEPT NO. 4 **ORDER GRANTING DEFENDANTS' MOTION FOR PRELIMINARY INJUNCTION AND DENYING APPLICATION FOR APPOINTMENT OF RECEIVER** Hearing Date: October 13, 2020 Hearing Time: 10:30 a.m.
AND ALL RELATED ACTIONS	

Defendants' Counter-Motion for a Preliminary Injunction having come before the Court on October 13, 2020, and John Benedict, Esq. appearing on behalf of Defendants Westland Liberty Village LLC and Westland Village Square LLC, and Bob Olson, Esq. appearing on behalf of Plaintiff Federal National Mortgage Association.

Pursuant to Westland Liberty Village LLC's and Westland Village Square LLC's (in combination "Westland") Counter-Motion for a Temporary Restraining Order and/or Preliminary Injunction ("Motion"), the Affidavit of Yanki Greenspan, the Affidavit of Shimon Greenspan,

Case Number: A-20-819412-B

Westland's Counterclaim and Third Party Complaint, and the Court having reviewed the pleadings and papers on file herein, including any filed by Plaintiff Federal National Mortgage Association ("Fannie Mae"), as well as Fannie Mae's Application for Appointment of Receiver and supporting papers (the "Application"), and having heard the arguments presented by Counsel, after considering and relying upon only admissible evidence, this Court in part applying its discretion including weighing the credibility of the declarations and other proof submitted in support of and in opposition to the Motions, enters the following findings of fact, conclusions of law, and Orders the following:

FINDINGS OF FACT

1. Fannie Mae admits conducting a property condition assessment at the multi-family apartment communities owned by Westland and located at 4870 Nellis Oasis Lane, Las Vegas, NV 89115 [Assessor's Parcel Nos. 140-08-710-161, 140-08-711-273 and 140-08-712-289] (the "Liberty Village Property") and 5025 Nellis Oasis Lane, Las Vegas, NV 89115 [Assessor's Parcel Nos. 140-08-702-002 and 140-08-702-003] (the "Village Square Property," or in combination the "Properties") in September 2018.

2. Westland has submitted evidence that it has spent over $1.7 million in capital improvements since the property condition assessment was conducted, $3.5 million in capital improvements since the Properties were purchased, $1,573,000 in security costs at the Properties, that it employs an on-site staff of 32 employees, all of which support that the condition of the Properties has not deteriorated.

3. Westland submitted 2300 pages of work orders and related documents for renovations it performed on vacant units from September 2019 through June 2020, which further supports that the condition of the Properties has not deteriorated.

4. Statements from unbiased third-parties, including the Office of the Clark County Commissioner and the Nevada State Apartment Association, support that the condition of the Properties has not deteriorated.

5. The Court finds Westland has submitted substantial evidence that no deterioration of the condition of the Liberty Village Property and Village Square Property has occurred.

6. The two loan agreements both contain terms, including in Section 6.03(c), requiring a showing of deterioration in order to perform a property condition assessment or take further action related to the Repair Reserve or Replacement Reserve accounts. Without Fannie Mae showing there was deterioration at the Properties, there can be no default by Westland's not placing additional funds into those two accounts. Fannie Mae has not shown deterioration of the Properties. In fact, Westland has shown the opposite at this early stage, even without any formal discovery. The lack of demonstrated deterioration is enough to warrant a preliminary injunction as set forth herein.

7. Fannie Mae admits that in August 2018 when the loan agreement for the Liberty Village Property was assumed the parties agreed to a combined total of $105,032.03 for the Repair Reserve and Replacement Reserve, which was fully funded on the date of the date the loan was assumed, plus an additional monthly Replacement Reserve payment of $18,600.00.

8. Fannie Mae admits that in August 2018 when the loan agreement for the Village Square Property was assumed the parties agreed to a combined total of $38,287.25 for the Repair Reserve and Replacement Reserve, which was fully funded on the date of the date the loan was assumed, plus additional monthly Replacement Reserve payments of $10,259.08.

9. The undisputed facts establish that Westland paid $18,600.00 each month for the Liberty Village Replacement Reserve and $10,259.08 each month for the Village Square Replacement Reserve consistent with the schedules to the loan agreements as executed in August 2018, as well as the principal and interest payments that were required by the loan agreements.

10. Fannie Mae admits that its servicer, Grandbridge Real Estate Capital, LLC ("Grandbridge") forwarded a Notice of Demand, dated October 18, 2019, on its behalf that sought a combined $2.85 million additional reserve deposit from Westland for the Liberty Village Property and Village Square Property, which necessarily was based on a modification of the reserve amounts listed in the loan agreements.

11. By relying on the Notice of Demand, Fannie Mae admits that Grandbridge transferred all funds it held on Westland's behalf for each Property from the interest bearing Replacement Reserve account to the non-interest bearing Repair Reserve account.

12. Fannie Mae admits forwarding a Notice of Default and Acceleration of Note, dated December 17, 2019, which sought to hold Westland in default under the loan agreements that were assumed with Fannie Mae for not depositing the additional $2.85 million Fannie Mae demanded, sought acceleration of the note for each Property, and sought not only the full principal balance but also default interest and costs. Fannie Mae further admits that, due to the asserted default, it holds $1,000,000.00 in insurance proceeds from work Westland had performed, and paid for, at the Properties. Based solely on that purported default, Fannie Mae has refused to turn those funds over to Westland.

13. Fannie Mae admits forwarding a Demand and Notice Pursuant to NRS 107A.270, dated December 17, 2019, which sought to revoke Westland's license to collect rents at the Properties, which is based solely on the purported default arising from not depositing an additional $2.85 million into reserves.

14. Fannie Mae admits pursuing a foreclose against Westland's Properties by filing a Notice of Default and Election to Sell under Deed of Trust, dated July 8, 2020, and taking actions in furtherance of foreclosure against each of the Properties, which is based solely on the purported default arising from not depositing an additional $2.85 million into reserves.

CONCLUSIONS OF LAW

1. NRCP 65(b) provides the Court with the authority to issue a preliminary injunction;

2. NRS 33.010 provides that an injunction may be granted in the following cases:

   a. "When it shall appear by the [pleadings] that the [requesting party] is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of an act complained of, either for a limited period or perpetually."

b. "When it shall appear by the complaint or affidavit that the commission or continuance of some act, during the litigation, would produce great or irreparable injury to the [requesting party]."

c. "When it shall appear, during the litigation, that the [non-requesting party] is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the [requesting parties'] rights respecting the subject of the action, and tending to render the judgment ineffectual."

3. A preliminary injunction is available upon a showing that the party seeking the injunction enjoys a "reasonable probability of success on the merits" and that the non-moving party's "conduct, if allowed to continue, will result in irreparable harm for which compensatory damages is an inadequate remedy." *Sobol v. Capital Management Consultants, Inc.*, 102 Nev. 444, 446 (1986); *Clark County School Dist. v. Buchanan*, 112 Nev. 1146, 924 P.2d 716, 719 (1996). The Court "may also weigh the public interest and relative hardships of the parties ..." *Id*. (*citing Pickett v. Commanche Construction Inc.*, 108 Nev. 422, 426, 836 P.2d 42, 44 (1992)).

4. The ultimate purpose of the preliminary injunction is to preserve the status quo so as to prevent irreparable harm. *Dixon v. Thatcher et al.*, 103 Nev. 414, 415, 742 P2d 1029 (1987).

5. Westland has shown a reasonable probability of success on the merits for the relief it seeks via Counterclaim in this case. This element is thus satisfied in Westland's Counter-Motion for a Preliminary Injunction because Fannie Mae has failed to establish that any default has occurred, and even viewing the evidence and arguments Fannie Mae presented in the best light for it, at best for Fannie Mae there are substantial factual disputes related to whether any default occurred. Fannie Mae's papers admit pursuing a foreclose against Westland's Properties by filing a Notice of Default and Intent to Sell, and such actions may amount to a breach of contract, failure to service the loan in good faith, and may support the other claims and damages in Westland's Counterclaim.

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6. Westland would suffer irreparable harm to its interests in real property, to its personnel, and to an ongoing business in the absence of such an order to enjoin Fannie Mae's actions. First, real property is unique. Second, Westland has invested millions of dollars into the Properties, has substantial equity in them, and has significantly improved the living conditions at the Properties. Westland has been recognized by independent third parties for these successes, including lowering the crime rate at the Properties. Specifically, Westland has received various commendations from the Las Vegas Metropolitan Police Department, housing authorities, and the local governments. Third, Westland has invested heavily in personnel for the Properties, including paying in excess of $1.5M for salaries and related expenses for security personnel. All told, Westland has over thirty people working at the Property, and part of the irreparable harm will be those people losing their jobs if Fannie Mae's foreclosure is allowed to proceed or if the Court appoints a receiver.

7. Based upon the above, and all evidence and documentation submitted, and here specifically applying the Court's discretion, the prejudice to Westland is much greater than the prejudice to Fannie Mae if no injunction is issued in this case.

8. Issuance of a preliminary injunction as requested by Westland would preserve the status quo until this matter is fully resolved on the merits.

9. Westland has met their burden of proof to support this Preliminary Injunction through competent evidence.

10. Westland has made a substantial investment in the collateral securing the loan and continue to maintain substantial funds within the Repair Escrow Account and Replacement Escrow Account that render the need for a bond for a preliminary injunction to be de minimus.

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11. Fannie Mae's has not shown good cause for its Application for Appointment of a Receiver because it has not carried its burden to show any default occurred and based on the lack of evidence of irreparable harm or substantial loss to collateral to Fannie Mae.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Defendant's Countermotion for a Preliminary Injunction is **GRANTED**;

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that Plaintiff's Application for Appointment of a Receiver is **DENIED**;

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that:

(1) Fannie Mae, including, without limitation, Fannie Mae's servicers, agents, affiliates, representatives, officers, managers, directors, shareholders, members, partners, trustees, and other persons exercising or having control over the affairs of Fannie Mae, (collectively the "Enjoined Parties") are enjoined from taking any and all actions to foreclose or continue the foreclosure process upon Westland's Properties, and may not conduct any foreclosure proceeding or foreclosure sale on Properties until further order of this Court;

(2) The Enjoined Parties may not continue to maintain the Liberty Village Notice of Default and Election to Sell under Deed of Trust, dated July 8, 2020, which shall immediately be removed from the title of the Liberty Village Property;

(3) The Enjoined Parties may not continue to maintain the Village Square Notice of Default and Election to Sell under Deed of Trust, dated July 8, 2020, which shall immediately be removed from the title of the Village Square Property;

(4) The Enjoined Parties may not interfere with Westland's enjoyment of the Properties pending a final determination of the rights and obligations of the parties pursuant to the Multifamily Loan and Security Agreement entered by and between Lenders and Westland on August 29, 2018;

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(5) Fannie Mae's Application to appoint a receiver is denied, and the Enjoined Parties are further enjoined from and may not do the following acts:

a) appoint a receiver;

b) take possession of any real or personal property, which prohibition extends to both tangible or intangible property, including, without limitation, all land, buildings and structures, leases, rents, fixtures, and movable personal property that may be identified as "Leases," "Rents" or "Mortgaged Property" in any "Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing," located at or related to the Village Square Property and Liberty Village Property (hereinafter the "Property") referenced in both parties pleadings;

c) obtain possession of, exercise control over, enforce a judgment, enforce a lien, foreclose, enforce a Deed of Trust, or otherwise take any action against the Property, without specific permission from or a further determination of this Court;

d) interfere with Westland, directly or indirectly, in the management and operation of the Property, the collection of rents derived from the Property, or do any act which will, or which will tend to, impair, defeat, divert, prevent, or prejudice Westland's use or preservation of the Property (including the leases, rents and reserve-escrow accounts related thereto) or the interest of Westland in the Property and in said leases, rents, and reserve-escrow accounts;

e) fail to turn over to Westland the monthly debt service invoices for the Property, which have been withheld between February 2020 and present, and on a going forward basis, Fannie Mae or its servicer will forward the monthly statements Fannie Mae's servicers produce for any borrower who is not in default;

f) fail to process loan payments consistent with the terms of the loan agreement, including that Fannie Mae, or its servicer, will return to the ordinary practice of auto-debiting Westland's account for the amount of the non-default normal monthly debt

service payment each month;

g) retain possession of any funds paid in excess of the non-default monthly debt service payments, which excess funds Westland paid between February 2020 and the present based on the refusal of Fannie Mae's servicer to produce monthly statements to Westland;

h) fail to disburse or turn over to Westland any funds currently held or initially held in the Restoration Reserve Account, which funds were earmarked for the repair of the fire-damaged buildings, Buildings 3426 and 3517, regardless of whether Fannie Mae continues to maintain those funds in the same account or has transferred those funds to another account;

i) continue to improperly maintain the funds designated to be held in the interest bearing Replacement Reserve Account for each of the Properties in the non-interest bearing Repair Reserve Account for each of the Properties, to restore any balance that has already been transferred, and to credit the Replacement Reserve Account for the interest that Westland would have earned;

j) continue to refuse to respond to Reserve Disbursement Requests for more than 10 days, or to fail to disburse funds held in the Repair Reserve and Replacement Reserve escrow accounts in response to requests submitted consistent with the terms of the loan agreements;

k) continue to maintain the Notice of Demand, dated October 18, 2019, which will be held to be retracted and stricken;

l) continue to maintain the Notice of Default and Acceleration of Note, dated December 17, 2019, which will be deemed retracted and stricken;

m) continue to maintain the Demand and Notice Pursuant to NRS 107A.270, dated December 17, 2019, which will be deemed retracted and stricken;

n) otherwise displace Westland from the operation or management of the Property;

o) take any adverse action against any Westland entity in relation to other loans, discriminate against or blacklist any Westland entity on new loan or loan refinancing applications, including by placing Westland on "a-check," adding a fee to any loan quoted or adding an interest rate surcharge to such applications, based on the purported default that arose from failing to deposit the additional $2.85 million into escrow as requested.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the bond amount related to this preliminary injunction shall be $1,000.00 for Defendants, which Defendants may also meet by depositing $1000.00 cash with this Court.

Dated: November ___, 2020

Dated this 20th day of November, 2020

IT IS SO ORDERED.

The Honorable Kerry Earley
DISTRICT COURT JUDGE

Kerry Earley
District Court Judge

//
//

Agreed as to Form and Content:

SNELL & WILMER L.L.P.

By: ***DOES NOT APPROVE***
Nathan G. Kanute, Esq.
Bob L. Olson, Esq.
David L. Edelblute, Esq.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

Attorneys for Plaintiff Federal National Mortgage Association

LAW OFFICES OF JOHN BENEDICT

By: ***/s/ John Benedict***
John Benedict, Esq.
2190 E. Pebble Road, Suite 260
Las Vegas, Nevada 89123

Attorneys for Defendants/Counterclaimants/Third Party Plaintiffs Westland Liberty Village, LLC & Westland Village Square LLC

Respectfully Submitted:

Dated: November 16, 2020

LAW OFFICES OF JOHN BENEDICT

By: ***/s/ John Benedict***
John Benedict, Esq.
2190 E. Pebble Road, Suite 260
Las Vegas, Nevada 89123

Attorneys for Defendants/Counterclaimants/Third Party Plaintiffs Westland Liberty Village, LLC & Westland Village Square LLC

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Federal National Mortgage, Plaintiff(s) vs. Westland Liberty Village, LLC, Defendant(s)	CASE NO: A-20-819412-B DEPT. NO. Department 13

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 11/20/2020

Joseph Went	jgwent@hollandhart.com
Sydney Gambee	srgambee@hollandhart.com
Brian Dziminski	brian@dziminskilaw.com
John Benedict	john@benedictlaw.com
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Angelyn Cayton	Angelyn@benedictlaw.com
Office Admin	office.admin@benedictlaw.com
David Edelblute	dedelblute@swlaw.com

If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 11/23/2020

John Benedict	2190 E. Pebble Road Suite 260 Las Vegas, NV, 89123

DISTRICT COURT
CLARK COUNTY, NEVADA

Other Business Court Matters **COURT MINUTES** **October 13, 2020**

A-20-819412-B Federal National Mortgage, Plaintiff(s)
vs.
Westland Liberty Village, LLC, Defendant(s)

October 13, 2020 **9:00 AM** **All Pending Motions**

HEARD BY: Earley, Kerry **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Nylasia Packer

RECORDER: Rebeca Gomez

REPORTER:

PARTIES PRESENT: Benedict, John G Attorney

JOURNAL ENTRIES

- Parties present via Bluejeans including Bob Olson, Esq. for Plaintiff. Receiver Jacqueline Kimaz present.

As to Application for Appointment of Receiver on Order Shortening Time, following arguments by counsel, Court stated its findings and ORDERED, Application of Receiver DENIED.

As to Defendant's Opposition to Plaintiff's Application for Appointment of Receiver on Order Shortening Time; Counter-Motion for Temporary Restraining Order and/or Preliminary Injunction; Memorandum of Points and Authorities, Following arguments by counsel, Court stated its findings and ORDERED, Counter Motion for Preliminary Injunction GRANTED. FURTHER ORDERED, $1,000. BOND for Preliminary Injunction.

EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE

NOTICE OF DEFICIENCY

ON APPEAL TO NEVADA SUPREME COURT

NATHAN G. KANUTE, ESQ.
3883 HOWARD HUGHES PKWY., STE 1100
LAS VEGAS, NV 89169

DATE: December 2, 2020
CASE: A-20-819412-B

RE CASE: FEDERAL NATIONAL MORTGAGE ASSOCIATION vs. WESTLAND LIBERTY VILLAGE, LLC; WESTLAND LIBERTY SQUARE, LLC

NOTICE OF APPEAL FILED: November 30, 2020

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

☒ $250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
- If the $250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.

☐ $24 – District Court Filing Fee (Make Check Payable to the District Court)**

☒ $500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
- NRAP 7: Bond For Costs On Appeal in Civil Cases
- *Previously paid Bonds are not transferable between appeals without an order of the District Court.*

☐ Case Appeal Statement
- NRAP 3 (a)(1), Form 2

☐ Order

☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

Certification of Copy

State of Nevada
County of Clark } **SS:**

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS' MOTION FOR PRELIMINARY INJUNCTION AND DENYING APPLICATION FOR APPOINTMENT OF RECEIVER; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

FEDERAL NATIONAL MORTGAGE ASSOCIATION,

Plaintiff(s),

vs.

WESTLAND LIBERTY VILLAGE, LLC; WESTLAND LIBERTY SQUARE, LLC,

Defendant(s),

Case No: A-20-819412-B

Dept No: XIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 2 day of December 2020.

Steven D. Grierson, Clerk of the Court

Amanda Hampton, Deputy Clerk