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9 *Attorneys for Third Party Defendant*
10 *Grandbridge Real Estate Capital, LLC*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 **FEDERAL NATIONAL MORTGAGE**
14 **ASSOCIATION,**

15 **Plaintiff,**

16 **v.**

17 **WESTLAND LIBERTY VILLAGE, LLC and**
18 **WESTLAND VILLAGE SQUIARE, LLC**

19 **Defendants.**

20 **AND ALL RELATED ACTIONS**

21 ...

22 ...

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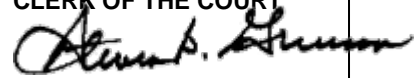
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Electronically Filed
12/4/2020 5:03 PM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Dec 10 2020 09:50 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. A-20-819412-C
Dept. No. 13

THIRD PARTY DEFENDANT
GRANDBRIDGE REAL ESTATE
CAPITAL, LLC'S NOTICE OF APPEAL

1 NOTICE is hereby given that Third Party Defendant Grandbridge Real Estate Capital
2 LLC (“Grandbridge” or “Third Party Defendant”), by and through its attorneys of record, Holland
3 & Hart LLP, hereby appeals to the Supreme Court of Nevada from the *Order Granting*
4 *Defendants’ Motion for Preliminary Injunction and Denying Application for Appointment of*
5 *Receiver* entered in this action on the 24th day of November, 2020.

6 DATED this 4th day of December, 2020

7 HOLLAND & HART LLP

8
9 /s/ Joseph G. Went, Esq

10 Joseph G. Went, Esq.

11 Nevada Bar No. 9220

12 Lars K. Evensen, Esq.

13 Nevada Bar No. 8061

14 Sydney R. Gambee, Esq.

15 Nevada Bar No. 14201

16 9555 Hillwood Drive, 2nd Floor

17 Las Vegas, NV 89134

18 *Attorneys for Third Party Defendant*
19 *Grandbridge Real Estate Capital, LLC*
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of December 2020, and pursuant to N.R.C.P.
5(b), a true and correct copy of the foregoing **THIRD PARTY DEFENDANT**
GRANDBRIDGE REAL ESTATE CAPITAL, LLC'S NOTICE OF APPEAL was served
on the following parties in the manner set forth below:

☒ VIA THE COURT'S ELECTRONIC SERVICE SYSTEM:

John Benedict, Esq.
Law Offices of John Benedict
2190 E. Pebble Road, Suite 260
Las Vegas, NV 89123

Nathan G. Kanute, Esq.
David L. Edelbute, Esq.
Snell & Wilmer L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169

Attorney for Westland Liberty Village, LLC &
Westland Village Square LLC

Attorneys for Plaintiff

☐ HAND DELIVERY

☐ E-MAIL TRANSMISSION

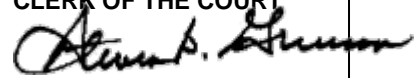
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☐ U.S. MAIL, POSTAGE PREPAID

/s/ C. Bowman

An employee of HOLLAND & HART LLP

15827418_v1



1 **ASTA**
Joseph G. Went, Esq.
2 Nevada Bar No. 9220
Lars K. Evensen, Esq.
3 Nevada Bar No. 8061
Sydney R. Gambee, Esq.
4 Nevada Bar No. 14201
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7 JGWent@hollandhart.com
LKEvensen@hollandhart.com
8 SRGambee@hollandhart.com

9 *Attorneys for Third Party Defendant*
10 *Grandbridge Real Estate Capital, LLC*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 **FEDERAL NATIONAL MORTGAGE**
14 **ASSOCIATION,**

15 **Plaintiff,**

16 **v.**

17 **WESTLAND LIBERTY VILLAGE, LLC and**
18 **WESTLAND VILLAGE SQUIARE, LLC**

19 **Defendants.**

20 **AND ALL RELATED ACTIONS**

Case No. A-20-819412-C
Dept. No. 13

THIRD PARTY DEFENDANT
GRANDBRIDGE REAL ESTATE
CAPITAL, LLC'S CASE APPEAL
STATEMENT

21 **1. NAME OF APPELLANT FILING THIS CASE APPEAL STATEMENT**

22 Grandbridge Real Estate Capital, LLC

23 **2. JUDGE ISSUING THE DECISION, JUDGMENT, OR ORDER APPEALED**
24 **FROM**

25 The Honorable Kerry Earley

26 ...

1 **3. NAME OF EACH APPELLANT AND THE NAME AND ADDRESS OF**
2 **COUNSEL FOR EACH APPELLANT**

3 Grandbridge Real Estate Capital, LLC
4 Holland & Hart LLP
5 Joseph G. Went, Esq.
6 9555 Hillwood Drive, 2nd Floor
7 Las Vegas, Nevada 89134

7 **4. NAME OF RESPONDENTS AND ADDRESS OF APPELLATE COUNSEL FOR**
8 **RESPONDENTS**

9 Westland Liberty Village, LLC
10 Westland Village Square, LLC
11 Law Offices of John Benedict
12 John Benedict, Esq.
13 2190 E. Pebble Road, Suite 260
14 Las Vegas, Nevada 89123

13 **5. WHETHER COUNSEL LISTED ABOVE IS NOT LICENSED TO PRACTICE**
14 **LAW IN NEVADA**

15 All counsel listed above is licensed to practice law in Nevada.

16 **6. WHETHER APPELLANT WAS REPRESENTED BY APPOINTED OR**
17 **RETAINED COUNSEL IN THE DISTRICT COURT**

18 Grandbridge Real Estate Capital, LLC was represented by retained counsel in the Eight
19 Judicial District Court case.

20 **7. WHETHER APPELLANT IS REPRESENTED BY APPOINTED OR RETAINED**
21 **COUNSEL ON APPEAL**

22 Grandbridge Real Estate Capital, LLC is represented by retained counsel, the law firm of
23 Holland & Hart LLP, on appeal.

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

27 Grandbridge Real Estate Capital, LLC has not moved for leave to proceed in forma
28 pauperis.

This case commenced on August 12, 2020, the date that the complaint was filed.

Plaintiff Federal National Mortgage Association (“Fannie Mae”) filed a complaint and an application for appointment of a receiver. The Respondents filed an opposition and counter-motion for a temporary restraining order and preliminary injunction. On November 24, 2020, the district court entered an order denying Fannie Mae’s application for appointment of a receiver and granted Respondents’ request for injunctive relief.

None.

This appeal does not concern child custody or visitation.

Possible.

DATED this 4th day of December, 2020

HOLLAND & HART LLP

/s/ *Joseph G. Went, Esq*

Joseph G. Went, Esq.
Nevada Bar No. 9220
Lars K. Evensen, Esq.
Nevada Bar No. 8061
Sydney R. Gambée, Esq.
Nevada Bar No. 14201
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

*Attorneys for Third Party Defendant
Grandbridge Real Estate Capital, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of December 2020, and pursuant to N.R.C.P.
5(b), a true and correct copy of the foregoing **THIRD PARTY DEFENDANT**
GRANDBRIDGE REAL ESTATE CAPITAL, LLC'S CASE APPEAL STATEMENT was
served on the following parties in the manner set forth below:

☒ VIA THE COURT'S ELECTRONIC SERVICE SYSTEM:

John Benedict, Esq.
Law Offices of John Benedict
2190 E. Pebble Road, Suite 260
Las Vegas, NV 89123

Nathan G. Kanute, Esq.
David L. Edelbute, Esq.
Snell & Wilmer L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169

Attorney for Westland Liberty Village, LLC &
Westland Village Square LLC

Attorneys for Plaintiff

☐ HAND DELIVERY

☐ E-MAIL TRANSMISSION

☐ U.S. MAIL, POSTAGE PREPAID

☐ U.S. MAIL, POSTAGE PREPAID

/s/ C. Bowman

An employee of HOLLAND & HART LLP

15827484_v1

DISTRICT COURT

CASE SUMMARY

Federal National Mortgage, Plaintiff(s)

vs.

Westland Liberty Village, LLC, Defendant(s)

CASE NO. A-20-819412-B§
§
§
§
§
§Location: **Department 13**Judicial Officer: **Denton, Mark R.**Filed on: **08/12/2020**Case Number History: **A-20-819412-C**Cross-Reference Case **A819412**

Number:

CASE INFORMATIONCase 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

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

DISTRICT COURT
CASE SUMMARY
CASE NO. A-20-819412-B
EVENTS & ORDERS OF THE COURT

DATE

INDEX

08/12/2020	 Complaint Filed By: Counter Defendant Federal National Mortgage <i>Verified Complaint</i>
08/12/2020	 Appendix Filed By: Counter Defendant Federal National Mortgage <i>Appendix of Exhibits to Verified Complaint</i>
08/12/2020	 Application Filed By: Counter Defendant Federal National Mortgage <i>Application for Appointment of Receiver on Order Shortening Time - Hearing Requested</i>
08/12/2020	 Initial Appearance Fee Disclosure Filed By: Counter Defendant Federal National Mortgage <i>Federal National Mortgage Association's Initial Appearance Fee Disclosures</i>
08/12/2020	 Summons Electronically Issued - Service Pending Party: Counter Defendant Federal National Mortgage <i>Summons as to Westland Liberty Village, LLC</i>
08/12/2020	 Summons Electronically Issued - Service Pending Party: Counter Defendant Federal National Mortgage <i>Summons as to Westland Village Square, LLC</i>
08/13/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
08/14/2020	 Clerk's Notice of Nonconforming Document <i>Clerk's Notice of Nonconforming Document</i>
08/31/2020	 Answer Filed By: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC <i>Answer to Plaintiff's Complaint, Counterclaim and Third Party Complaint</i>
08/31/2020	 Summons Filed by: Third Party Plaintiff Westland Liberty Village, LLC <i>Summons for Third Party Complaint</i>
08/31/2020	 Initial Appearance Fee Disclosure Filed By: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
08/31/2020	 Opposition and Countermotion Filed By: Third Party Plaintiff Westland Liberty Village, LLC <i>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</i>
08/31/2020	 Affidavit Filed By: Third Party Plaintiff Westland Liberty Village, LLC <i>Affidavit of Yakoov Greenspan in Opposition to Application to Appoint Receiver and in</i>

DISTRICT COURT
CASE SUMMARY
CASE NO. A-20-819412-B

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

DISTRICT COURT
CASE SUMMARY
CASE NO. A-20-819412-B

09/18/2020	 Notice of Entry of Stipulation and Order Filed By: Third Party Plaintiff Westland Liberty Village, LLC <i>Notice of Entry of Stipulation and Order</i>
09/18/2020	 Affidavit Filed By: Third Party Plaintiff Westland Liberty Village, LLC <i>Affidavit of Shimon Greenspan In Support of Counterclaimant's Motion for Temporary Restraining Order and Motion for Preliminary Injunction</i>
09/18/2020	 Affidavit <i>Supplemental Affidavit of Yakoov Greenspan In Support of Counterclaimant's Motion for Temporary Restraining Order and Motion for Preliminary Injunction</i>
09/18/2020	 Reply to Opposition Filed by: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC <i>Reply in Support of Counter-Motion for Temporary Restraining Order and/or Preliminary Injunction</i>
10/13/2020	Motion (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Application for Appointment of Receiver on Order Shortening Time</i> Denied; <i>Denied</i>
10/13/2020	Opposition and Countermotion (9:00 AM) (Judicial Officer: Earley, Kerry) <i>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</i> Granted; <i>Granted</i>
10/13/2020	 All Pending Motions (9:00 AM) (Judicial Officer: Earley, Kerry) Matter Heard; <i>Matter Heard</i>
10/19/2020	 Recorders Transcript of Hearing <i>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;</i>
10/19/2020	 Motion to Dismiss Filed By: Counter Defendant Federal National Mortgage <i>Motion to Dismiss Defendants' Counterclaims</i>
10/19/2020	 Motion to Strike Filed By: Counter Defendant Federal National Mortgage <i>Motion to Strike Defendants' Affirmative Defenses</i>
10/19/2020	 Request to Transfer to Business Court Filed by: Third Party Defendant Grandbridge Real Estate Capital LLC <i>Request for Assignment to Business Court</i>
10/19/2020	 Answer Filed By: Third Party Defendant Grandbridge Real Estate Capital LLC <i>Answer to Third Party Complaint</i>
10/20/2020	

DISTRICT COURT
CASE SUMMARY
CASE NO. A-20-819412-B

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

DISTRICT COURT
CASE SUMMARY
CASE NO. A-20-819412-B

11/20/2020	 Notice of Entry of Stipulation and Order Filed By: Counter Defendant Federal National Mortgage <i>NOTICE OF ENTRY OF STIPULATION AND ORDER TO CONTINUE HEARING ON MOTION TO STRIKE DEFENDANTS' DEMAND FOR JURY TRIAL</i>
11/24/2020	 Clerk's Notice of Nonconforming Document <i>Clerk's Notice of Nonconforming Document</i>
11/24/2020	 Motion to Associate Counsel Filed By: Third Party Plaintiff Westland Liberty Village, LLC; Third Party Plaintiff Westland Village Square, LLC <i>Amended Motion to Associate Counsel</i>
11/24/2020	 Notice of Entry Filed By: Third Party Plaintiff Westland Liberty Village, LLC <i>NOTICE OF ENTRY OF ORDER ORDER GRANTING DEFENDANTS MOTION FOR PRELIMINARY INJUNCTION AND DENYING APPLICATION FOR APPOINTMENT OF RECEIVER</i>
11/25/2020	 Objection Filed By: Counter Defendant Federal National Mortgage <i>LIMITED OBJECTION TO DEFENDANTS' AMENDED MOTION TO ASSOCIATE COUNSEL AND RESERVATION OF RIGHTS</i>
11/30/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
11/30/2020	 Notice of Appeal Filed By: Counter Defendant Federal National Mortgage <i>Notice of Appeal</i>
11/30/2020	 Case Appeal Statement Filed By: Counter Defendant Federal National Mortgage <i>Case Appeal Statement</i>
12/01/2020	 Notice of Deposit Filed By: Third Party Plaintiff Westland Liberty Village, LLC <i>Notice of Deposit of Bond Re: Preliminary Injunction</i>
12/03/2020	 Reply in Support Filed By: Counter Defendant Federal National Mortgage <i>Reply in Support of Motion to Strike Defendants' Demand for Jury Trial</i>
12/03/2020	 Appendix Filed By: Counter Defendant Federal National Mortgage <i>APPENDIX OF EXHIBITS TO REPLY IN SUPPORT OF MOTION TO STRIKE DEFENDANTS' DEMAND FOR JURY TRIAL</i>
12/03/2020	 Declaration Filed By: Counter Defendant Federal National Mortgage <i>Declaration of James Noakes in Support of Plaintiff's Reply in Support of Motion to Strike Defendants' Demand for Jury Trial</i>
12/03/2020	 Joinder Filed By: Third Party Defendant Grandbridge Real Estate Capital LLC

DISTRICT COURT
CASE SUMMARY
CASE NO. A-20-819412-B

	<i>Third Party Defendant Grandbridge Real Estate Capital, LLC s Joinder to Reply in Support of Motion to Strike Defendants Demand for Jury Trial</i>
12/04/2020	 Joinder Filed By: Third Party Defendant Grandbridge Real Estate Capital LLC <i>Third Party Defendant Grandbridge Real Estate Capital, LLC's Joinder to Federal National Mortgage Association's Limited Objection to Defendants' Amended Motion to Associate Counsel and Reservation of Rights</i>
12/04/2020	 Notice of Appeal Filed By: Third Party Defendant Grandbridge Real Estate Capital LLC <i>Third Party Defendant Grandbridge Real Estate Capital, LLC's Notice of Appeal</i>
12/04/2020	 Case Appeal Statement Filed By: Third Party Defendant Grandbridge Real Estate Capital LLC <i>Third Party Defendant Grandbridge Real Estate Capital, LLC's Case Appeal Statement</i>
12/10/2020	Motion to Strike (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff's Motion to Strike Defendants' Demand for Jury Trial</i>
12/10/2020	Joinder (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Third Party Defendant Grandbridge Real Estate Capital, LLC's Joinder to Motion to Strike Defendants' Demand for Jury Trial</i>
01/07/2021	Motion to Associate Counsel (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Defendants/Counterclaimants/ Third Party Plaintiffs' Amended Motion to Associate Counsel</i>
01/19/2021	Motion to Dismiss (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff's Motion to Dismiss Defendants' Counterclaims</i>
01/19/2021	Motion to Strike (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Plaintiff's Motion to Strike Defendants' Affirmative Defenses</i>
01/19/2021	Joinder (9:00 AM) (Judicial Officer: Denton, Mark R.) <i>Third Party Defendant Grandbridge Real Estate Capital, LLC s Joinder to Reply in Support of Motion to Strike Defendants Demand for Jury Trial</i>

DATE

FINANCIAL INFORMATION

Third Party Plaintiff Westland Liberty Village, LLC	
Total Charges	388.00
Total Payments and Credits	388.00
Balance Due as of 12/7/2020	0.00
Counter Defendant Federal National Mortgage	
Total Charges	294.00
Total Payments and Credits	294.00
Balance Due as of 12/7/2020	0.00
Third Party Defendant Grandbridge Real Estate Capital LLC	
Total Charges	1,301.50
Total Payments and Credits	1,301.50
Balance Due as of 12/7/2020	0.00
Third Party Plaintiff Westland Liberty Village, LLC	
Injunction Balance as of 12/7/2020	1,000.00
Counter Defendant Federal National Mortgage	
Appeal Bond Balance as of 12/7/2020	500.00

DISTRICT COURT
CASE SUMMARY
CASE NO. A-20-819412-B

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): <div style="text-align: center; padding: 5px;">FEDERAL NATIONAL MORTGAGE ASSOCIATION</div>	Defendant(s) (name/address/phone): <div style="text-align: center; padding: 5px;">WESTLAND LIBERTY VILLAGE LLC</div> <div style="text-align: center; padding: 5px;">WESTLAND VILLAGE SQUARE LLC</div>
Attorney (name/address/phone): <div style="text-align: center; padding: 5px;">NATHAN G. KANUTE</div> <div style="text-align: center; padding: 5px;">DAVID L. EDELBLUTE</div> <div style="text-align: center; padding: 5px;">SNELL & WILMER L.L.P.</div> <div style="text-align: center; padding: 5px;">50 W LIBERTY ST STE 510 RENO NV 89501-1961</div>	Attorney (name/address/phone): <div style="height: 40px;"></div>

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

Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input checked="" type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> 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.

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,

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

8 ***FINDINGS OF FACT***

9 1. Fannie Mae admits conducting a property condition assessment at the multi-family
10 apartment communities owned by Westland and located at 4870 Nellis Oasis Lane, Las Vegas, NV
11 89115 [Assessor’s Parcel Nos. 140-08-710-161, 140-08-711-273 and 140-08-712-289] (the “Liberty
12 Village Property”) and 5025 Nellis Oasis Lane, Las Vegas, NV 89115 [Assessor’s Parcel Nos. 140-
13 08-702-002 and 140-08-702-003] (the “Village Square Property,” or in combination the
14 “Properties”) in September 2018.

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

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

23 4. Statements from unbiased third-parties, including the Office of the Clark County
24 Commissioner and the Nevada State Apartment Association, support that the condition of the
25 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.

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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 foreclosure 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. NRC 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 foreclosure 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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1 11. Fannie Mae's has not shown good cause for its Application for Appointment of a
2 Receiver because it has not carried its burden to show any default occurred and based on the lack of
3 evidence of irreparable harm or substantial loss to collateral to Fannie Mae.

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

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

8 IT IS FURTHER ORDERED, ADJUDGED, and DECREED that:

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

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

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

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

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

3 a) appoint a receiver;

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

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

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

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

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

1 service payment each month;

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

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

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

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

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

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


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

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

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

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

10 Dated: November __, 2020



The Honorable Kerry Earley
DISTRICT COURT JUDGE
Kerry Earley
District Court Judge

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12 //
13 //

1 Agreed as to Form and Content:
2

3 SNELL & WILMER L.L.P.
4

5 By: **DOES NOT APPROVE**
6 Nathan G. Kanute, Esq.
7 Bob L. Olson, Esq.
8 David L. Edelblute, Esq.
9 3883 Howard Hughes Parkway, Suite 1100
10 Las Vegas, NV 89169

11 *Attorneys for Plaintiff Federal National*
12 *Mortgage Association*

13 LAW OFFICES OF JOHN BENEDICT

14 By: **/s/ John Benedict**
15 John Benedict, Esq.
16 2190 E. Pebble Road, Suite 260
17 Las Vegas, Nevada 89123

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

20 *Respectfully Submitted:*
21

22 Dated: November 16, 2020

23 LAW OFFICES OF JOHN BENEDICT

24 By: **/s/ John Benedict**
25 John Benedict, Esq.
26 2190 E. Pebble Road, Suite 260
27 Las Vegas, Nevada 89123

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

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Federal National Mortgage,
7 Plaintiff(s)

CASE NO: A-20-819412-B

8 vs.

DEPT. NO. Department 13

9 Westland Liberty Village, LLC,
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 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:

15 Service Date: 11/20/2020

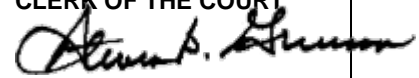
16 Joseph Went	jgwent@hollandhart.com
17 Sydney Gambee	srgambee@hollandhart.com
18 Brian Dziminski	brian@dziminskilaw.com
19 John Benedict	john@benedictlaw.com
20 Lara Taylor	ljtaylor@swlaw.com
21 Nathan Kanute	nkanute@swlaw.com
22 Mary Full	mfull@swlaw.com
23 Docket Docket	docket_las@swlaw.com
24 Bob Olson	bolson@swlaw.com
25 Jacqueline Gaudie	jacqueline@benedictlaw.com

26
27
28

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
---------------	--



1 **NEO**
2 **LAW OFFICES OF JOHN BENEDICT**
3 John Benedict, Esq.
4 Nevada Bar No. 005581
5 2190 E. Pebble Road, Suite 260
6 Las Vegas, Nevada 89123
7 Telephone: (702) 333-3770
8 Facsimile: (702) 361-3685
9 Email: John@Benedictlaw.com
10 Attorneys for Defendants

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 *****

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FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Plaintiffs,
vs.

WESTLAND LIBERTY VILLAGE, LLC and
WESTLAND VILLAGE SQUARE, LLC,

Defendants,

CASE NO.: A-20-819412-C
DEPT. NO.: 4

NOTICE OF ENTRY OF ORDER

AND ALL RELATED ACTIONS

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

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

3 **DATED** this_24th_ day of November, 2020.

4 **LAW OFFICES OF JOHN BENEDICT**

5
6 By: /s/ John Benedict
7 John Benedict, Esq. (SBN 5581)
8 2190 East Pebble Road, Suite 260
9 Las Vegas, Nevada 89123
10 Email: John@Benedictlaw.com
11 Attorneys for Defendants
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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

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

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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 foreclosure 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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1 11. Fannie Mae's has not shown good cause for its Application for Appointment of a
2 Receiver because it has not carried its burden to show any default occurred and based on the lack of
3 evidence of irreparable harm or substantial loss to collateral to Fannie Mae.

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

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

8 IT IS FURTHER ORDERED, ADJUDGED, and DECREED that:

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

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

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

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

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25 //

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

3 a) appoint a receiver;

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

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

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

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

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

1 service payment each month;

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

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

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

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

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

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


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

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

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

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

10 Dated: November __, 2020



The Honorable Kerry Earley
DISTRICT COURT JUDGE
Kerry Earley
District Court Judge

11
12 //
13 //

1 Agreed as to Form and Content:
2

3 SNELL & WILMER L.L.P.
4

5 By: **DOES NOT APPROVE**
6 Nathan G. Kanute, Esq.
7 Bob L. Olson, Esq.
8 David L. Edelblute, Esq.
9 3883 Howard Hughes Parkway, Suite 1100
10 Las Vegas, NV 89169

11 *Attorneys for Plaintiff Federal National*
12 *Mortgage Association*

13 LAW OFFICES OF JOHN BENEDICT

14 By: /s/ **John Benedict**
15 John Benedict, Esq.
16 2190 E. Pebble Road, Suite 260
17 Las Vegas, Nevada 89123

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

20 *Respectfully Submitted:*
21

22 Dated: November 16, 2020

23 LAW OFFICES OF JOHN BENEDICT

24 By: /s/ **John Benedict**
25 John Benedict, Esq.
26 2190 E. Pebble Road, Suite 260
27 Las Vegas, Nevada 89123

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

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Federal National Mortgage,
7 Plaintiff(s)

CASE NO: A-20-819412-B

8 vs.

DEPT. NO. Department 13

9 Westland Liberty Village, LLC,
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 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:

15 Service Date: 11/20/2020

16 Joseph Went	jgwent@hollandhart.com
17 Sydney Gambee	srgambee@hollandhart.com
18 Brian Dziminski	brian@dziminskilaw.com
19 John Benedict	john@benedictlaw.com
20 Lara Taylor	ljtaylor@swlaw.com
21 Nathan Kanute	nkanute@swlaw.com
22 Mary Full	mfull@swlaw.com
23 Docket Docket	docket_las@swlaw.com
24 Bob Olson	bolson@swlaw.com
25 Jacqueline Gaudie	jacqueline@benedictlaw.com

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27
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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
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**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

JOSEPH G. WENT, ESQ.
9555 HILLWOOD DR., 2ND FLOOR
LAS VEGAS, NV 89134

DATE: December 7, 2020
CASE: A-20-819412-B

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

NOTICE OF APPEAL FILED: December 4, 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):

THIRD PARTY DEFENDANTS GRANDBRIDGE REAL ESTATE CAPITAL, LLC'S NOTICE OF APPEAL; THIRD PARTY DEFENDANT GRANDBRIDGE REAL ESTATE CAPITAL, LLC'S CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS' MOTION FOR PRELIMINARY INJUNCTION AND DENYING APPLICATION OF 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 VILLAGE 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 7 day of December 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk