

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WELLS FARGO BANK, N.A.,
SUCCESSOR BY MERGER TO WELLS
FARGO BANK MINNESOTA, N.A.,
F/K/A NORWEST BANK MINNESOTA,
N.A., SOLELY AS TRUSTEE FOR BEAR
STEARNS ASSET BACKED
SECURITIES I, LLC, GREENPOINT
MORTGAGE FUNDING TRUST 2006-
AR1, MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2006-AR1,
Appellant,
vs.
COLLEGIUM FUND, LLC SERIES 11, A
NEVADA LIMITED LIABILITY
COMPANY,
Respondent.

No. 72567

FILED

JUN 05 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Wells Fargo Bank, N.A., appeals from a district court's summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.


Wells Fargo was the beneficiary on a first deed of trust on a property which respondent Collegium Fund, LLC Series 11 (Collegium) purchased at a homeowners' association (HOA) foreclosure sale conducted pursuant to NRS Chapter 116. Collegium filed suit against Wells Fargo and others to establish that Collegium now held the property free and clear of any encumbrances such as Wells Fargo's deed of trust. Both Wells Fargo and Collegium filed motions for summary judgment. The district court denied Wells Fargo's motion and granted summary judgment in favor of Collegium. This appeal followed.

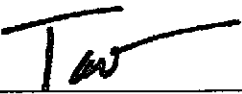
This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005); *see also Costello v. Casler*, 127 Nev. 436, 439, 254 P.3d 631, 634 (2011). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Wood*, 121 Nev. at 729, 121 P.3d at 1029. When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* General allegations and conclusory statements do not create genuine issues of fact. *Id.* at 731, 121 P.3d at 1030-31.


Here, Wells Fargo argues that the HOA foreclosure could not have included a superpriority lien amount because the amount on the notice included fees or assessments that were subpriority, and that the sale was commercially unreasonable. The argument regarding lien amounts does not show that a superpriority lien did not exist, because a notice of lien can include subpriority amounts. *See SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. 742, 757, 334 P.3d 408, 418 (2014) (providing that proper notice to the homeowner does not need to specifically separate the superpriority lien amount from the total HOA lien); *see also Shadow Wood Homeowners Ass'n, Inc. v. N.Y. Cmty. Bancorp, Inc.*, 132 Nev. ___, ___, 366 P.3d 1105, 1110 (2016) (holding that the HOA foreclosure deed recitals are conclusive evidence that the foreclosure was proper absent a showing of fraud, unfairness, or oppression). And we further determine that the district court was correct in finding that an inadequate price is not enough to set aside the sale as commercially unreasonable without a showing of fraud, oppression, or unfairness. *See Shadow Wood*, 132 Nev. at ___, 366 P.3d at 1112 *Nationstar Mortg. v. Saticoy Bay LLC Series 2227 Shadow*

Canyon, 133 Nev. ___, ___, 405 P.3d 641, 642 (2017) (determining that the “commercial reasonableness” standard under the Uniform Commercial Code is inapplicable in the context of an HOA foreclosure sale of real property). Further, our review of the record and all other arguments shows no genuine issue of material fact exists and summary judgment was proper. See *Wood*, 121 Nev. at 729, 121 P.3d at 1029. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Susan Johnson, District Judge
Smith Larsen & Wixom
Clark Newberry Law Firm
Eighth District Court Clerk