

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LEONORA LLOREN,
Appellant,
vs.
FEDERAL NATIONAL MORTGAGE
ASSOCIATION,
Respondent.

No. 68391

FILED

APR 19 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition for judicial review in a Foreclosure Mediation Program (FMP) matter. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

In an appeal from a district court order granting or denying judicial review in an FMP matter, we defer to the district court's factual findings and review de novo the district court's legal determinations. *Edelstein v. Bank of N.Y. Mellon*, 128 Nev. 505, 521-22, 286 P.3d 249, 260 (2012). To obtain an FMP certificate, a deed of trust beneficiary must: (1) attend the mediation; (2) participate in good faith; (3) bring the required documents; and (4) if attending through a representative, have a person present with authority to modify the loan or access to such person. NRS 107.086(4) and (5) (2013); *Leyva v. Nat'l Default Servicing Corp.*, 127 Nev. 470, 475-76, 255 P.3d 1275, 1278-79 (2011).

On appeal, appellant contends that the copies of the required documents produced by respondent were not properly certified copies of the original documents. In support of this argument, appellant asserts that the copies were not certified in accordance with NRS 240.1655(2)(c), which requires that, "[i]n certifying a copy of a document, [a notarial

officer must] photocopy the entire document and certify that the photocopy is a true and correct copy of the document that was presented to the notarial officer.” Respondent asserts that the certifications fully complied with both the relevant statute and the Foreclosure Mediation Rules (FMR).


Here, the affidavits of certification attested that the person making the oath was in actual possession of the original documents and that he “presented the original document in [his] possession to the notary.” Moreover, the notary signed and affixed a seal to the following statement on the affidavits: “I have photocopied the entire document and certify the photocopy is a true and correct copy of the document presented to the notarial officer pursuant to NRS 240.1655(2)(c).” As the affidavits of certification indicate that the notary photocopied the original documents, we conclude that the district court properly found that the affidavits demonstrated that the certification was consistent with the requirements of NRS 240.1655(2)(c).¹ Finally, to the extent appellant may be arguing that respondent was required to produce separate documents in order to

¹Because we conclude that the documents satisfied NRS 240.1655(2)(c), we need not address respondent’s argument that compliance with that subsection is not required. Additionally, to the extent appellant asserts on appeal that respondent’s documents were improper because there were multiple versions of the mortgage note and because respondent had a certified copy of the deed of trust, rather than the original, in its possession, appellant waived these arguments by failing to raise them before the district court, and we therefore decline to address these arguments on appeal. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981).

satisfy NRS 240.1655(2)(c) and FMR 12(8) (2014),² appellant has not identified, and our independent review does not reveal, anything in the statute or rules imposing such a requirement. Accordingly, the district court properly denied the petition for judicial review, and we therefore affirm that determination.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Kathleen E. Delaney, District Judge
Janet Trost, Settlement Judge
Beck and Associates
McCarthy & Holthus, LLP/Las Vegas
Eighth District Court Clerk

²As of January 14, 2016, FMR 12 was amended and renumbered as FMR 13, but the amendment is not relevant to the issue raised in this appeal.