

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BOBBI SAHNI,  
Appellant,  
vs.  
WILMINGTON TRUST,  
Respondent.

No. 75212-COA

**FILED**

JAN 08 2020

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

*ORDER OF AFFIRMANCE*

Bobbi Sahni appeals from a district court order granting a petition for judicial review in a foreclosure mediation matter. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Sahni participated in Nevada's Foreclosure Mediation Program (FMP) with the predecessor to respondent Wilmington Trust, the current beneficiary of the first deed of trust on the subject property (herein referred to collectively as the Beneficiary). In his statement prepared following the unsuccessful mediation, the mediator noted that the broker's price opinion (BPO) that the Beneficiary brought to the mediation was more than 60 days old—in contravention of FMR 13(7)(f)<sup>1</sup>—but that the BPO the Beneficiary had previously provided via email to both the mediator and Sahni was performed within the requisite period. Notably, the mediator did not recommend sanctions or include anything else in his statement indicating that the Beneficiary had not properly complied with the FMP's

---

<sup>1</sup>The FMRs became effective on June 30, 2009, and have been amended and renumbered numerous times since. For clarity, the citations herein are to the FMRs that went into effect on January 13, 2016, which were the FMRs in effect at the time the underlying mediation occurred.

requirements. Nevertheless, the FMP administrator declined to issue a certificate of foreclosure, and the Beneficiary filed a petition for judicial review in the district court challenging the decision. The district court concluded that the Beneficiary had complied with all FMP requirements, and it ordered the issuance of a certificate of foreclosure. This appeal followed.

On appeal, Sahni contends that a certificate of foreclosure should not issue because the BPO the Beneficiary brought to the mediation—which was nearly 300 days old—frustrated the purpose of the rules requiring a more recent BPO or appraisal.<sup>2</sup> See *Markowitz v. Saxon Special Servicing*, 129 Nev. 660, 666-67, 310 P.3d 569, 573 (2013) (noting that a BPO slightly older than 60 days substantially complies with FMP requirements because it facilitates informed negotiation, but that a 200-day-old BPO likely would not). However, Sahni does not dispute that she received the more recent BPO within the 10 days prior to the mediation or that it was conducted within the requisite 60-day period, nor does she allege that she suffered any prejudice as a result of the Beneficiary's failure to

---


<sup>2</sup>We decline to address Sahni's argument on appeal that the copies of the mortgage documents that the Beneficiary brought to the mediation were not properly certified. See FMP 13(7)(e) (requiring the beneficiary of the deed of trust to bring to the mediation originals or certified copies of the mortgage note, the deed of trust, and any assignments thereof). Sahni failed to raise this issue in the district court, instead arguing only that the Beneficiary had admitted that it did not bring originals or certified copies to the mediation. See *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal."). Our review of the record reveals no such admission, and the mediator did not check any of the boxes in the statement form indicating that the Beneficiary failed to bring originals or certified copies of the requisite mortgage documents.



bring the newer BPO to the mediation. See FMR 13(7)(f) (requiring only that the beneficiary of the deed of trust submit an appraisal or BPO not more than 60 days old to the mediator and the homeowner at least 10 days before the mediation, not that the beneficiary physically bring the BPO to the mediation); *Markowitz*, 129 Nev. at 667, 310 P.3d at 573 (holding that even a BPO that was older than 60 days substantially complied with FMP requirements where it did not “impair the FMP’s policy of facilitating good-faith negotiations” or contain information that was “inaccurate to the extent that the homeowners would be prejudiced”). Accordingly, Sahni’s argument is without merit, and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Kathleen E. Delaney, District Judge  
Peters & Associates, LLP  
Wright, Finlay & Zak, LLP/Las Vegas  
Eighth District Court Clerk