IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BKLJ INVESTMENT HOLDINGS LLC, A NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
CARRINGTON FORECLOSURE SERVICES, LLC, A LIMITED LIABILITY COMPANY; AND BANK OF AMERICA, N.A., A NATIONAL BANKING ASSOCIATION,
Respondents.

No. 88875-COA

FILED

AUG 27 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY Melissa Stiles
DEPUTY CLERK

ORDER OF AFFIRMANCE

BKLJ Investment Holdings LLC appeals from a district court order granting a motion for summary judgment in an action to quiet title. Eighth Judicial District Court, Clark County; Jacob A. Reynolds, Judge.

BKLJ sued respondents Carrington Foreclosure Services, LLC and Bank of America, N.A. (respondents) for quiet title, wrongful foreclosure, a violation of NRS 107.028, a violation of NRS 107.200 et seq., and sought declaratory and injunctive relief. BKLJ alleged that it was the owner of the relevant property and that a deed of trust encumbered the property. BKLJ further alleged, among other things, that the deed of trust had been extinguished as a matter of law under NRS 106.240. That statute provides that a lien on real property is conclusively presumed to be discharged "10 years after the debt secured by the mortgage or deed of trust

according to the terms thereof or any recorded written extension thereof become[s] wholly due." NRS 106.240. According to BKLJ, respondents' interest in the subject property was extinguished under NRS 106.240, which was triggered by an alleged notice of intent to accelerate the underlying debt in a letter sent to the original borrower in 2010.

Respondents answered and later filed a motion for summary judgment. Respondents contended, among other things, that there was no genuine dispute of fact as to whether NRS 106.240 extinguished the deed of trust, as the loan had not become wholly due in 2010. Respondents also argued the debt had not become wholly due by the original borrower's default or by a letter sent concerning the default. In addition, respondents filed documents and affidavits in support of the motion, which included information related to the deed of trust and the note, and the recorded assignments of the deed of trust.

BKLJ opposed the motion and filed a countermotion for summary judgment, arguing the undisputed facts demonstrated it was entitled to summary judgment. In particular, BKLJ asserted respondents' interest in the subject property was extinguished under NRS 106.240. BKLJ alternatively requested NRCP 56(d) relief to conduct discovery. Respondents subsequently filed a reply in support of their motion and opposed BKLJ's countermotion.

The district court issued a written order in which it concluded that there was no genuine dispute of material fact and respondents were entitled to summary judgment as a matter of law. The court ruled the plain language of NRS 106.240 precluded events, such as the ones alleged in

BKLJ's complaint, from triggering the ten-year period under NRS 106.240. The court also determined that BKLJ was not entitled to relief as to any of its remaining claims. The district court accordingly granted respondents' motion for summary judgment and denied BKLJ's countermotion for summary judgment. This appeal followed.

First, BKLJ argues the district court erred by granting summary judgment in favor of respondents. 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). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine dispute of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* 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 disputes of fact. *Id.* at 731, 121 P.3d at 1030-31.

On appeal, BKLJ argues the district court erred by granting summary judgment in respondents' favor because the terms of the deed of trust permitted acceleration of the loan. BKLJ further argues the lender sent the original borrower a notice indicating the acceleration of the loan secured by the deed of trust more than ten years ago and, because the loan was accelerated, the deed of trust that secured that debt became extinguished pursuant to NRS 106.240.

NRS 106.240, Nevada's ancient-lien statute, provides that a lien created by a mortgage or deed of trust that has not been otherwise satisfied will be presumed discharged ten years after the debt becomes

wholly due. A debt becomes "wholly due" according to either (1) the terms in the mortgage or deed of trust, or (2) any recorded, written extension of those terms. *LV Debt Collect, LLC v. Bank of New York Mellon*, 139 Nev. 232, 236, 534 P.3d 693, 697 (2023); *Posner v. U.S. Bank Nat'l Ass'n*, 140 Nev., Adv. Op. 22, 545 P.3d 1150, 1153 (2024). For a deed of trust to be presumed satisfied for the purposes of NRS 106.240, "ten years [must] have passed after the last possible date the deed of trust is in effect, as shown by the maturity date on the face of the deed of trust or any recorded extension thereof." *LV Debt Collect*, 139 Nev. at 238, 534 P.3d at 699. The supreme court also explained that, even if a notice provided to the borrower indicating a default in certain circumstances could render a loan wholly due, a notice that declared sums were due and payable but also provided the borrower with the opportunity to cure the default constituted the sort of conflicting language that did not amount to a clear and unequivocal announcement of the lender's intention to declare a debt wholly due. *Id.* at 238-39, 534 P.3d at 699.

Here, because the terms of the deed of trust did not render the debt wholly due upon the original borrower's default and allowed the opportunity for the borrower to cure the default, NRS 106.240's ten-year period was not triggered by either the default or any purported lender's letter concerning the default. To the extent BKLJ relies on the acceleration clause contained in the deed of trust and asserts that this clause made the debt wholly due, we are not persuaded by this argument because the borrower retained the option under the deed of trust to reinstate the loan to good standing. *See Norman, LLC v. Newrez LLC*, No. 87545, 2024 WL

5086198, at *1 (Nev. Dec. 11, 2024) (Order of Affirmance) (stating that merely defaulting on a loan is insufficient to trigger NRS 106.240); *Big Rock Assets Mgmt., LLC v. Newrez LLC*, No. 86675, 2024 WL 4865435, at *2 (Nev. Nov. 21, 2024) (Order of Affirmance) (explaining that "the filing of a notice of default may not automatically accelerate a loan, because NRS 107.080(2)-(3) requires a notice of default to give a borrower thirty-five days to cure, which is antithetical to an acceleration"); *RH Kids, LLC v. Specialized Loan Servicing, LLC*, No. 87701-COA, 2025 WL 365736, at *3 (Nev. Ct. App. Jan. 31, 2025) (Order of Affirmance) (rejecting appellant's argument that the debt secured by the deed of trust became wholly due more than ten years ago because the terms of the deed of trust permitted acceleration of the loan and a notice was sent indicating acceleration of the loan). Accordingly, we conclude that, under the language of the deed of trust, neither the default nor the letter could have accelerated the due date on the loan, and thus the ten-year period under NRS 106.240 was not triggered. Therefore, BKLJ fails to demonstrate that it is entitled to relief based on this argument.

Second, BKLJ contends the district court abused its discretion by refusing to grant it additional time for discovery to oppose respondents' motion for summary judgment. The district court did not specifically refer to BKLJ's request for NRCP 56(d) relief, but we note that, by granting respondents' motion for summary judgment, the district court effectively denied BKLJ's request for NRCP 56(d) relief to conduct discovery. *See Bd. of Gallery of Hist., Inc. v. Datecs Corp.*, 116 Nev. 286, 289, 994 P.2d 1149, 1150 (2000) (concluding that a district court's failure to rule on a request constitutes a denial of that request).

We review the denial of a request for a continuance to conduct discovery pursuant to NRCP 56(d) for an abuse of discretion. *Aviation Ventures, Inc. v. Joan Morris, Inc.*, 121 Nev. 113, 117-18, 110 P.3d 59, 62 (2005). "An abuse of discretion occurs if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason." *Skender v. Brunsonbuilt Constr. & Dev. Co.*, 122 Nev. 1430, 1435, 148 P.3d 710, 714 (2006) (internal quotation marks omitted). NRCP 56(d) provides that a district court may allow additional time to conduct discovery if the nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition. *Choy v. Ameristar Casinos, Inc.*, 127 Nev. 870, 872, 265 P.3d 698, 700 (2011). In addition, such a request is only appropriate when the movant expresses how further discovery will create a genuine dispute of material fact. *Aviation Ventures*, 121 Nev. at 118, 110 P.3d at 62.

Here, BKLJ requested a continuance to conduct discovery but did not specifically explain why it could not present sufficient facts to justify its opposition or how the additional information it hoped to obtain through discovery would create a genuine dispute of material fact. On appeal, BKLJ likewise does not explain what information it could have gained via discovery to create a genuine dispute of material fact. Under these circumstances, BKLJ fails to demonstrate that any failure to permit it additional time to conduct discovery was arbitrary or capricious or exceeded the bounds of law or reason, and thus it fails to demonstrate the district court abused its discretion by denying BKLJ NRCP 56(d) relief. *See id.* at 117-18, 110 P.3d at 62; *see also Wyeth v. Rowatt*, 126 Nev. 446, 465, 244

P.3d 765, 778 (2010) (explaining that, to establish an error is not harmless and reversal is warranted, "the movant must show that the error affects the party's substantial rights so that, but for the alleged error, a different result might reasonably have been reached").

Thus, based on the foregoing analysis, we conclude that BKLJ's contention that the district court erred by granting summary judgment in favor of respondents is without merit.[1] Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

[1]BKLJ does not challenge the district court's decision to grant summary judgment in favor of respondents as to the additional claims raised in its complaint. As a result, BKLJ has forfeited any argument related to the same. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) ("Issues not raised in an appellant's opening brief are deemed waived.").

cc: Hon. Jacob A. Reynolds, District Judge
Janet Trost, Settlement Judge
Hong & Hong
Wright, Finlay & Zak, LLP/Las Vegas
Eighth District Court Clerk