

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE IN TRUST
FOR THE REGISTERED HOLDERS OF
MORGAN STANLEY ABS CAPITAL I
INC. TRUST 2006-HE7, MORTGAGE
PASS-THROUGH CERTIFICATES,
SERIES 2006-HE7,
Appellant,
vs.
AUTUMN LA MAY,
Respondent.

No. 71664

FILED

JUN 05 2018

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

ORDER OF AFFIRMANCE

Deutsche Bank National Trust Company appeals from a district court's summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.

Deutsche Bank claims to be the beneficiary of a deed of trust on a property which respondent Autumn La May acquired from a purchaser, whose title was acquired at a homeowners' association (HOA) foreclosure sale conducted pursuant to NRS Chapter 116. La May filed suit against Deutsche Bank and others to establish that La May now held the property free and clear of any encumbrances such as Deutsche Bank's deed of trust. Both Deutsche Bank and La May filed motions for summary judgment. The district court denied Deutsche Bank's motion and granted summary judgment in favor of La May. 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, the supreme court has addressed the legal theories and arguments advanced by Deutsche Bank in challenging the district court's summary judgment order on appeal, and based on the supreme court's resolution of those issues, we conclude Deutsche Bank's arguments are without merit. See *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. 742, 757, 334 P.3d 408, 418 (2014) (discussing that proper notice to the homeowner does not need to specifically separate the superpriority lien amount from the total HOA lien); *Shadow Wood Homeowners Ass'n, Inc. v. N.Y. Cmty. Bancorp, Inc.*, 132 Nev. ___, ___, 366 P.3d 1105, 1112 (2016) (requiring a showing of fraud, unfairness, or oppression in addition to a purported inadequate price at foreclosure to be commercially unreasonable); *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); *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortg.*, 133 Nev. ___, ___, 388 P.3d 970, 975 (2017) (holding that the NRS Chapter 116 HOA foreclosure provisions do not implicate the lienholder's due process rights and are constitutional in application); *K&P Homes v. Christiana Trust*, 133 Nev. ___, ___, 398 P.3d 292, 293 (2017) (holding that *SFR Investments Pool 1, LLC*, *supra*, applies retroactively). Further, our

review of the record and all other arguments shows no genuine issue of material fact exists and summary judgment was proper.¹ 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. Gloria Sturman, District Judge
Eleissa C. Lavelle, Settlement Judge
Wright, Finlay & Zak, LLP/Las Vegas
The Law Office of Mike Beede, PLLC
Eighth District Court Clerk

¹To the extent that Deutsche Bank seeks relief on appeal pursuant to NRCP 56(f), we will not consider this point as it was not raised below. 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.”).