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- Appendix B - Order Dated 06 March 2018 – North Carolina Court of Appeals
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- Appendix E - Order of Temporary Stay – North Carolina Court of Appeals

Supreme Court of North Carolina

MARTIN E. ROCK

v

EXECUTIVE OFFICE PARK OF DURHAM ASSOCIATION, INC., CLAIMANT

APPENDIX

A

From N.C. Court of Appeals
(P17-912)
From Durham
(16SP1061)

ORDER

The following order has been entered on the motion filed on the 15th of December 2017 by Respondent for Leave to File Reply:

"Motion Dismissed as moot by order of the Court in conference, this the 1st of March 2018."

**s/ Morgan, J.
For the Court**

Upon consideration of the petition filed by Respondent on the 22nd of December 2017 for Writ of Supersedeas of the judgment of the Court of Appeals, the following order was entered and is hereby certified to the North Carolina Court of Appeals:

"Denied by order of the Court in conference, this the 1st of March 2018."

**s/ Morgan, J.
For the Court**

The following order has been entered on the motion filed on the 22nd of December 2017 by Respondent to Amend Supplemental Reply and Response and Motions:

"Motion Allowed by order of the Court in conference, this the 1st of March 2018."

**s/ Morgan, J.
For the Court**

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 5th day of March 2018.



Amy L. Funderburk
Clerk, Supreme Court of North Carolina

M. C. Hackney
M. C. Hackney
Assistant Clerk, Supreme Court Of North Carolina

Copy to:

North Carolina Court of Appeals

Mr. Martin E. Rock, For Rock, Martin E. - (By Email)

Mr. J. Matthew Waters, Attorney at Law, For Executive Office Park of Durham Association, Inc. - (By Email)

Ms. Hope Derby Carmichael, Attorney at Law, For Executive Office Park of Durham Association, Inc. - (By Email)

West Publishing - (By Email)

Lexis-Nexis - (By Email)



North Carolina Court of Appeals

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Raleigh, NC 27602

No. COAP17-912-1

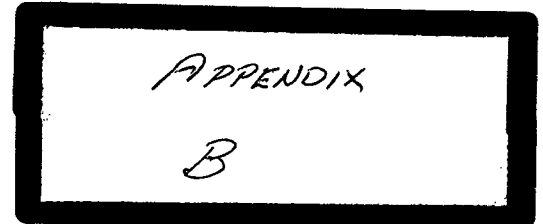
MARTIN E. ROCK,
PETITIONER-RESPONDENT,

V.

EXECUTIVE OFFICE PARK OF
DURHAM ASSOCIATION, INC.,

APPELLEE-CLAIMANT,

(ROCK OBJECTS TO THE NOMINAL SUBSTITUTE
TRUSTEE AS SHOWN IN THE CASE RECORD)



From Durham
16SP1061

ORDER

PETITION FOR WRIT OF SUPERSEDEAS OF THE JUDGMENT of the North Carolina Court of Appeals filed on the 22nd of December 2017 was denied by order of the North Carolina Supreme Court on the 5th day of March 2018, and same has been certified to the North Carolina Court of Appeals.

IT IS THEREFORE CERTIFIED to the Clerk of Superior Court, Durham County, North Carolina that the North Carolina Supreme Court has denied the PETITION FOR WRIT OF SUPERSEDEAS OF THE JUDGMENT filed by the Respondent in this cause.

WITNESS my hand and official seal this the 6th day of March 2018.

Daniel M. Horne Jr.
Clerk, North Carolina Court of Appeals

Copy to:

Mr. Martin E. Rock, Pro Se, For Rock, Martin E.

Mr. J. Matthew Waters, Attorney at Law, For Executive Office Park of Durham Association, Inc.

APPENDIX

C

STATE OF NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE

COUNTY OF DURHAM

2017 MAR 16 A 11:13 16 SP 1061

BEFORE THE CLERK

DURHAM COUNTY, C.S.C.

IN THE MATTER OF
THE FORECLOSURE OF A LIEN BY
Executive Office Park of Durham Association, Inc.
AGAINST

BY

ORDER AFFIRMING ORDER
AUTHORIZING SALE

MARTIN E. ROCK A/K/A MARTIN A. ROCK

LIEN DATED: November 4, 2016

LIEN RECORDED 16 M 1347

IN THE CLERK'S OFFICE, DURHAM COUNTY COURTHOUSE

THIS CAUSE came on for hearing on March 14, 2017 upon Respondent-Appellant Martin E. Rock a/k/a Martin A. Rock's appeal of the Order Authorizing Sale entered and filed in this matter on January 25, 2017 by Archie L. Smith, Clerk of Superior Court, Durham County (the "Order Authorizing Sale"), before the Honorable Judge Beecher R. Gray, Durham County Superior Court Judge Presiding. Respondent-Appellant Martin E. Rock a/k/a Martin A. Rock appeared pro se. J. Matthew Waters of the Raleigh, North Carolina law firm of Jordan Price Wall Gray Jones & Carlton, PLLC appeared as counsel for the Petitioner-Appellee Executive Office Park of Durham Association, Inc. Anthony Klish of the Raleigh, North Carolina law firm of Klish & Eldreth, PLLC appeared as Substitute Trustee.

The Court first entertained and heard arguments by Respondent-Appellant Martin E. Rock a/k/a Martin A. Rock and Petition-Appellee Executive Office Park of Durham Association, Inc. on Respondent-Appellant Martin E. Rock a/k/a Martin A. Rock's Motion to Dismiss (the "Motion to Dismiss") the above-captioned matter. The Court DENIED the Motion to Dismiss and the same is hereby DENIED.

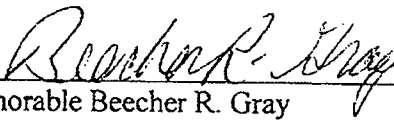
After hearing the arguments of Respondent-Appellant Martin E. Rock a/k/a Martin A. Rock and of counsel for Petitioner-Appellee Executive Office Park of Durham Association, Inc., this Court hereby AFFIRMS the Order Authorizing Sale, and makes the following findings of fact and conclusions of law consistent with said Order Authorizing Sale:

1. That Petitioner-Appellee Executive Office Park of Durham Association, Inc. is the holder of a valid lien as evidenced by the Claim of Lien filed in 16M1347, in the Clerk's office, DURHAM County Courthouse that secures a valid debt owed by the Respondent-Appellant Martin E. Rock a/k/a Martin A. Rock to Petitioner-Appellee Executive Office Park of Durham Association, Inc. that has remained unsatisfied for more than ninety (90) days.
2. That at the time the Notice of Hearing was filed, Respondent-Appellant Martin E. Rock a/k/a Martin A. Rock was the record owner of the property described in the Notice of Hearing and secured by the Claim of Lien.

R p. H. 1.1

3. That Respondent-Appellant Martin E. Rock a/k/a Martin A. Rock is in default under the terms of the Declaration of Covenants, Conditions and Restrictions, due to the non-payment of the assessments evidenced and secured by the lien, and the Declaration of Covenants, Conditions and Restrictions, as well as Chapter 47C of the North Carolina General Statutes, contains a right to foreclose after a default. *\ Not Applicable to EOP*
4. That the indebtedness evidenced by said claim of lien is not a home loan as defined in N.C.G.S. §45-101 et. seq., therefore this foreclosure is not subject to the notice requirements set forth in the Emergency Program to Reduce Home Foreclosures Act (N.C.G.S. §45-100 et. seq.).
5. That the foreclosure sale is not barred by N.C.G.S. §45-21.12A. *— FALSE Affidavit by EOP*
6. That the Petitioner-Appellee Executive Office Park of Durham Association, Inc. mailed a statement to the homeowner pursuant to N.C.G.S. §§ 47C-3-116(b) and (e) or N.C.G.S. §§ 47F-3-116(b) and (e), as applicable, within the timeframe therein required.
7. That the executive board of the Petitioner-Appellee Executive Office Park of Durham Association, Inc. voted to commence foreclosure against this specific lot or parcel of real property.
8. That Respondent-Appellant Martin E. Rock a/k/a Martin A. Rock received timely and effective notice of hearing as prescribed by law.
9. That the Substitute Trustee, Anthony Klish, in this action may proceed under the Declaration of Covenants, Conditions and Restrictions and give notice of and conduct a sale pursuant to the provisions of Article 2A of Chapter 45 of the North Carolina General Statutes.

This 15 day of March, 2017.



The Honorable Beecher R. Gray
Superior Court Judge Presiding

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing Order in the above captioned action on all parties by depositing a copy hereof in a postpaid wrapper in a post office depository under the exclusive care and custody of the United Postal Service, addressed as follows:

Martin E. Rock
5834 Shamrock Road
Durham, NC 27713-2630

Martin E. Rock
Post Office Box 13404
Research Triangle Park, NC 27709

J. Matthew Waters
1951 Clark Avenue
Raleigh, NC 27605

This the 16th day of March, 2017.


DURHAM COUNTY ASST. DEPUTY CLERK OF COURT

R p. H. 1.3

Article 8.

Perfecting, Recording, Enforcing and Discharging Liens.

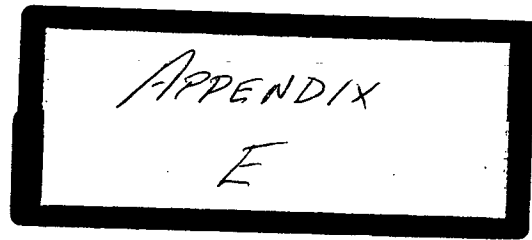
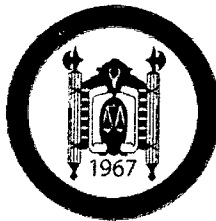
§ 44-38. Claim of lien to be filed; place of filing.

All claims shall be filed in the office of the clerk of superior court in the county where the labor has been performed or the materials furnished, specifying in detail the materials furnished or the labor performed, and the time thereof. If the parties interested make a special contract for such labor performed, or if such material and labor are specified in writing, in such cases it shall be decided agreeably to the terms of the contract, provided the terms of such contract do not affect the lien for such labor performed or materials furnished. (1869-70, c. 206, s. 4; 1876-7, c. 53, s. 1; Code, s. 1784; Rev., s. 2026; C.S., s. 2469; 1971, c. 1185, s. 4.)

§ 44-38.1. Repealed by Session Laws 1967, c. 562, s. 7.**§§ 44-39 through 44-46. Repealed by Session Laws 1969, c. 1112, s. 4.****§ 44-47. Repealed by Session Laws 1971, c. 1185, s. 5.****§ 44-48. Discharge of liens.**

All liens created by this Chapter may be discharged as follows:

- (1) By filing with the clerk a receipt or acknowledgment, signed by the claimant, that the lien has been paid or discharged.
- (2) By depositing with the clerk money equal to the amount of the claim, which money shall be held by said officer for the benefit of the claimant.
- (3) By an entry in the lien docket that the action on the part of the claimant to enforce the lien has been dismissed, or a judgment rendered against the claimant in such action.
- (4) By a failure of the claimant to commence an action for the enforcement of the lien within six months from the notice of lien filed. (1868-9, c. 117, s. 12; Code, s. 1793; Rev., s. 2033; C.S., s. 2479; 1971, c. 1185, s. 6.)



North Carolina Court of Appeals

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No. P17-161

MARTIN E. ROCK, PRO SE
APPELLANT-RESPONDENT,

V.

EXECUTIVE OFFICE PARK
OF DURHAM, INC.
APPELLEE-CLAIMANT.

ORDER

The following order was entered:

The petition and motion filed in this cause by petitioner Martin E. Rock on 28 August 2017 and designated 'Petition for Writ of Supersedeas and Motion for Temporary Stay' are decided as follows: ■ motion for temporary stay is allowed. It appearing that petitioner has posted an appeal bond as requ N.C. Gen. Stat. 1-292 (2015), the 'Order Affirming Order Authorizing Sale' entered 15 March 2017 and related foreclosure sale proceedings are hereby stayed pending this Court's ruling on the petition fo supersedeas. A ruling on the petition for writ of supersedeas will be made upon the filing of a resp■ the petition or the expiration of the time for a response if no response is filed.

By order of the Court this the 30th of August 2017.

WITNESS my hand and official seal this the 30th day of August 2017.

Daniel M. Horne Jr.
Clerk, North Carolina Court of Appeals

Copy to:

Mr. Martin E. Rock, For Martin E. Rock

Ms. Hope D. Carmichael, Attorney at Law, For Executive Office Park of Durham

Hon. Archie L. Smith, III, Clerk of District Court

LIST OF EXHIBITS

- Exhibit A - Order of Dismissal -10 November 2015
- Exhibit B - Notice of Voluntary Dismissal - 20 September 2016
- Exhibit C - Excerpts from Declaration
- Exhibit D - Claim
- Exhibit E - Notice of Foreclosure
- Exhibit F - Appeal Bond Order
- Exhibit G - Report of Foreclosure Sale

*EXHIBITS MAILED SEPARATELY
TO MINIMIZE
SHIPPING COSTS*
