

# **Bond Case Briefs**

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## **TAX - NEW YORK**

### **NYCTL 2009-A Trust v. Morris**

**Supreme Court, Appellate Division, Second Department, New York - September 12, 2018 - N.Y.S.3d - 2018 WL 4344592 - 2018 N.Y. Slip Op. 06022**

New York City Tax Lien (NYCTL) Trust and Bank of New York brought action against property owner to foreclose a tax lien encumbering premises.

The Supreme Court denied NYCTL Trust's motion for summary judgment. On appeal, the Supreme Court, Appellate Division, affirmed. NYCTL Trust filed second renewed motion for summary judgment and also sought to appoint a referee to compute the amount due, to substitute plaintiff, and to amend the caption. The Supreme Court, Queens County, denied motion for summary judgment. NYCTL Trust appealed.

The Supreme Court, Appellate Division, held that:

- NYCTL Trust demonstrated their prima facie entitlement to judgment as a matter of law;
- NYCTL Trust made a prima facie showing that they satisfied due process rights of property owner; and
- Property owner failed to raise a triable issue of fact rebutting NYCTL Trust's prima facie showing or as to the merit of his affirmative defense.

New York City Tax Lien (NYCTL) Trust moving for summary judgment in action to foreclose property tax lien demonstrated their prima facie entitlement to judgment as a matter of law by submitting the subject tax lien certificate, which was presumptive evidence of a valid and enforceable lien, along with proof that no payments had been made on the tax lien.

New York City Tax Lien (NYCTL) Trust moving for summary judgment in action to foreclose property tax lien made a prima facie showing that they satisfied the due process rights of property owner by furnishing constitutionally adequate notice of the sale of the tax lien.

Property owner failed to raise a triable issue of fact rebutting New York City Tax Lien (NYCTL) Trust's prima facie showing or as to the merit of his affirmative defense in opposition to NYCTL Trust's motion for summary judgment in action to foreclose property tax lien.