

Bond Case Briefs

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Kaura v. Stabilis Fund II, LLC

Court of Appeal, Fourth District, Division 2, California - June 13, 2018 - Cal.Rptr.3d - 2018 WL 2946763 - 18 Cal. Daily Op. Serv. 5746

Mortgagee brought judicial foreclosure action against mortgagors. After receiver was appointed, city intervened, alleging property was public nuisance and in violation of state and local law.

The Superior Court granted city's motion to modify receivership and awarded fees and expenses to city. Mortgagee appealed.

The Court of Appeal held that:

- Statute providing for award of attorney fees to prevailing party, in an action against a property owner when owner fails to comply with housing code enforcement order or notice, does not apply when a receiver has been appointed for property, and
- Even if mortgagee and receiver were successors in interest to property owner after appointment of receiver in judicial foreclosure action, mortgagee and receiver did not have actual or constructive knowledge of housing code enforcement notice and thus were not "owners" against whom attorney fees and expenses could be awarded.