

Short Form Order

NEW YORK STATE SUPREME COURT - QUEENS COUNTY

Present: Honorable JAMES J. GOLIA
Justice

IAS TERM, PART 33

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BANK OF SMITHTOWN,

Index No: 29428/09

Plaintiff(s),

Motion Date: 04/22/10

-- against --

Cal. No: 2

MOTT CREEK, LLC, "JOHN DOE #1" TO
AND INCLUDING "JOHN DOE #10", the
last ten names being fictitious and
unknown to the plaintiff(s), the
persons or parties intended being the
tenants, occupants, persons or
corporations, if any, having or
claiming an interest in or lien upon
the premises described in the complaint,
know as VACANT LAND AT BEACH 3RD STREET,
FAR ROCKAWAY, NEW YORK & 210 BEACH
2ND STREET, FAR ROCKAWAY, NEW YORK,

Sequence No. 1

Defendant(s).

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The following papers numbered 1 to 14 were read on this motion
by plaintiff for an order granting summary judgment, striking the
answer, amending the caption and appointing a referee.

PAPERS
NUMBERED

Notice of Motion, Affirmation, Affidavits and Exhibits.....	1 - 13
Answering Affirmation and Affidavit.....	14

Upon the foregoing papers it is ordered that this motion is
decided as follows:

Plaintiff moves this court for an order granting summary
judgment, striking the answer, appointing a referee and amending
the caption.

To establish a prima facie entitlement to foreclose on a mortgage, the plaintiff must demonstrate the existence of the mortgage and note, ownership of the mortgage and the defendant's default in payment. (See *Campaign v. Barbra*, 23 AD3d 327 [2nd Dept. 2005].)

Plaintiff has met its burden and defendant has failed to raise any issue of fact.

Accordingly, plaintiff's motion is granted, in its entirety.

Submit Order.

Dated: June 28, 2010

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JAMES J. GOLIA, J.S.C.