

COPY

DOWNEY BRAND LLP
STEVEN P. SAXTON (Bar No. 116943)
KEVIN M. O'BRIEN (Bar No. 122713)
AUSTIN C. CHO (Bar No. 307145)
621 Capitol Mall, 18th Floor
Sacramento, CA 95814-4731
Telephone: (916) 444-1000
Facsimile: (916) 444-2100
ssaxton@downeybrand.com
kobrien@downeybrand.com
acho@downeybrand.com

Attorneys for Plaintiff,
COMMUNITY FACILITIES DISTRICT
NO. 1 OF THE NORTHSTAR
COMMUNITY SERVICES DISTRICT, a
legally constituted governmental entity

SUPERIOR COURT OF CALIFORNIA

COUNTY OF PLACER

COMMUNITY FACILITIES DISTRICT
NO. 1 OF THE NORTHSTAR COMMUNITY
SERVICES DISTRICT, a legally constituted
governmental entity,

Plaintiff,

v.

ACM NORTHSTAR HOLDINGS I LLC,
a Delaware limited liability company;
ACM NORTHSTAR HOLDINGS II LLC,
a Delaware limited liability company; CASSIN
& CASSIN LLP, a New York State domestic
registered limited liability partnership;
ATALAYA CAPITAL MANAGEMENT LP,
a Delaware limited partnership; and DOES 1
through 200, inclusive,

Defendants.

Plaintiff COMMUNITY FACILITIES DISTRICT NO. 1 OF THE NORTHSTAR
COMMUNITY SERVICES DISTRICT ("CFD"), a legally constituted governmental entity,
alleges:

1. This foreclosure proceeding is brought pursuant to California Government Code
§ 53356.1, *et seq.*, which is part of the Mello-Roos Community Facilities Act of 1982, California
Government Code § 53311, *et seq.* (the "Act").

*Exempt from Filing Fees
Gov't. Code § 6103*

FILED
Superior Court of California
County of Placer

APR 04 2019

Jake Chatters
Executive Officer & Clerk
By: O. Lucatuorto, Deputy

CASE NO. **SCV0042801**

**COMPLAINT TO FORECLOSE LIEN OF
SPECIAL TAXES UNDER THE MELLO-
ROOS COMMUNITY FACILITIES ACT
OF 1982**

**[Answer Required to Be Verified Pursuant to
CCP § 446]**

1 2. This action is brought in the name of the CFD on behalf of the owners of its bonds
2 ("Bonds") pursuant to a covenant with those bondholders authorized by Government Code
3 § 53356.1.

4 3. At all times herein mentioned, the CFD was and is a legally constituted
5 governmental entity established pursuant to the Act for the purpose of financing public facilities
6 and services.

7 4. Plaintiff alleges on information and belief that Defendant ACM NORTHSTAR
8 HOLDINGS I LLC ("ACM I"), a Delaware limited liability company, is the owner of the parcel
9 of land designated as Placer County Assessor's parcel number ("APN") 706-204-000-000 (the
10 "ACM I Parcel").

11 5. Plaintiff alleges on information and belief that Defendant ACM NORTHSTAR
12 HOLDINGS II LLC ("ACM II"), a Delaware limited liability company, is the owner of the parcel
13 of land designated as APN 114-020-004-000 (the "ACM II Parcel" together with the ACM I
14 Parcel, the "Parcels").

15 6. Plaintiff is informed and believes that the ACM I Parcel is developed with
16 condominium units.

17 7. Plaintiff is informed and believes that the ACM II Parcel is undeveloped land with
18 entitlements for future condominium units.

19 8. Plaintiff alleges on information and belief that Defendant CASSIN & CASSIN
20 LLP, a New York State domestic registered limited liability partnership, is either an agent or
21 other representative of ACM I or otherwise holds an interest in the ACM I Parcel, designated as
22 Placer County APN 706-204-000-000.

23 9. Plaintiff alleges on information and belief that Defendant ATALAYA CAPITAL
24 MANAGEMENT LP, a Delaware limited partnership, is either an agent or other representative of
25 ACM II or otherwise holds an interest in the ACM II Parcel, designated as Placer County APN
26 114-020-004-000.

27 10. Plaintiff alleges on information and belief that Defendants DOES 1 through 200
28 each holds an interest in one or more of the Parcels, whether of record or otherwise.

1 11. The true names and capacities of the Defendants sued as DOES 1 through 200 are
2 unknown to Plaintiff, who therefore sues those Defendants by those fictitious names and prays
3 leave of this Court to insert their true names and capacities together with charging allegations, if
4 appropriate, when they are ascertained.

5 12. On May 10, 2005, a Notice of Special Tax Lien ("Notice") for the CFD was
6 recorded in the office of the Placer County Recorder as Document Number 2005-0059170.

7 13. Pursuant to the Act, the recordation of the Notice created a continuing lien against
8 the Parcels to secure payment of the CFD special taxes and penalties (the "CFD Special Taxes").

9 14. At the request and on behalf of the CFD, Northstar Community Services District
10 ("NCSD") directly billed the CFD Special Taxes to the ACM I Parcel for the 2017/18 fiscal year
11 in the amount of \$5,611.96.

12 15. At the request and on behalf of the CFD, NCSD directly billed the CFD Special
13 Taxes to the ACM II Parcel for the 2017/18 fiscal year in the amount of \$242,767.04.

14 16. The CFD Special taxes were to be paid in two equal installments, the first due on
15 or before December 10 (the "First Installment Delinquency Date") and the second due on or
16 before April 10 (the "Second Installment Delinquency Date") of each fiscal year. A fiscal year in
17 the CFD begins on July 1 and continues until June 30 of the following calendar year.

18 17. As to both Parcels, the first installment of the 2017/18 CFD Special Taxes was not
19 paid by the First Installment Delinquency Date, and penalties, interest and fees began to accrue on
20 the Parcels based on this delinquency.

21 18. As to both Parcels, the second installment of the 2017/18 CFD Special Taxes was
22 not paid by the Second Installment Delinquency Date, and penalties, interest, and fees began to
23 accrue on the Parcels based on this delinquency.

24 19. At the time the CFD Special Taxes became delinquent, the Bonds were
25 outstanding and payable in whole or in part by the delinquent CFD Special Taxes.

26 20. CFD Special Taxes are co-equal to and of the same priority as *ad valorem* property
27 taxes, become delinquent on the same dates as *ad valorem* property taxes, and bear the same
28 interest and penalties on delinquency as do *ad valorem* property taxes, as provided in Government

Code § 53340. CFD Special Taxes are delinquent if not paid on December 10 and April 10 of each year.

21. A delinquency penalty of 10% of the CFD Special Tax installment attached on each Delinquency Date pursuant to Revenue & Taxation Code §§ 2617 and 2618. Similarly, a penalty of 10% of each subsequently delinquent CFD Special Tax installment will attach to each such tax on its delinquency date.

22. In addition, a redemption penalty of 1.5% of each delinquent CFD Special Tax installment will attach on the next July 1 after the delinquency date pursuant to Revenue & Taxation Code § 4103, and a like amount will attach on the first of each month thereafter until judgment.

23. As of April 2, 2019, the total delinquency amount for the 2017/18 fiscal year, including penalties, interest and fees, for the ACM I Parcel was \$7,214.95.

24. As of April 2, 2019, the total delinquency amount for the 2017/18 fiscal year, including penalties, interest and fees, for the ACM II Parcel was \$303,658.80.

25. The total amount for the 2017/18 CFD Special Taxes on the Parcels remained unpaid as of April 2, 2019, and as of the date of filing this complaint. Therefore, interest, penalties, fees, and costs continue accruing thereon to the date of judgment.

26. If additional CFD Special Taxes become delinquent after judgment, the CFD may submit evidence supporting the inclusion of such amounts and the interest, penalties, fees and costs accruing thereon in the judgment.

27. The Board of Directors of NCSD, acting as the legislative body of the CFD, ordered that the delinquent CFD Special Taxes be collected by Superior Court foreclosure action.

28. Pursuant to Government Code § 53356.5, the foreclosure judgment shall include an award of the CFD's attorneys' fees, interest, penalties and other authorized costs, including cost of litigation guarantees, charges and advances calculated to date of judgment.

///

///

///

1 **WHEREFORE**, Plaintiff prays for relief as follows:

2 1. For judgment as to the Parcels for:

- 3 a) The total delinquent CFD Special Taxes, authorized costs and charges as of
4 the date of judgment, and for all interest, redemption penalties, delinquent
5 penalties, and other charges accrued thereon to date of judgment;
6 b) Costs of suit, including litigation guarantee, and for attorneys' fees;
7 c) Such additional sums, if any, as Plaintiff may hereafter expend to protect
8 its security interest in the Parcels together with interest thereon according
9 to proof; and
10 d) Such additional sums as the Court may deem proper.

11 2. That this Court decree that upon post-judgment application to this Court, the
12 judgment may be amended or modified to include any post-judgment CFD Special Tax
13 delinquencies, penalties and costs as provided by law;

14 3. That this Court adjudge and decree a lien against the Parcels for the amount of the
15 judgment as amended (the "CFD Lien"), and that the CFD Lien shall date from the date of
16 recordation of the notice of special tax lien;

17 4. That this Court decree that the CFD Lien be superior to all private liens on the
18 Parcels;

19 5. For judgment that the rights, claims, ownership, liens, titles and demands of each
20 Defendant and all persons claiming under or through each Defendant as to the Parcels are subject
21 and subordinate to the CFD Lien;

22 6. For judgment that the rights, claims, ownership, liens, titles and demands of any
23 defendants currently unnamed but later joined to this action, are subject and subordinate to the
24 CFD Lien;

25 7. For judgment that the rights, claims, ownership, liens, titles and demands of any
26 third parties to or in the Parcels, which rights, claims, ownership, liens, titles and demands arose
27 subsequent to recordation by Plaintiff of a notice of pending action are subject and subordinate to
28 the CFD Lien;

1 8. That this Court adjudge the CFD Lien against the Parcels be foreclosed and order
2 the Parcels to be sold on execution without post-sale right of redemption or right to deficiency
3 judgment;

4 9. That this Court order that the Parcels be sold as in other cases of the sale of real
5 property by the process of the Court except as otherwise provided in the Act; that all third party
6 claims that arose subsequent to or were not of record at the time of Plaintiff's recordation of a
7 notice of pending action be disallowed; that all the liens and interests of all Defendants'
8 successors in interest shall be extinguished upon sale of the Parcels pursuant to judgment; and
9 that Defendants and all persons claiming under or through them, and all such third parties shall be
10 barred and foreclosed from all rights, claims, and interest in the Parcels;

11 10. That this Court order that the purchaser at the sale of the Parcels take title to the
12 Parcels subject to all unpaid CFD Special Taxes and *ad valorem* taxes;

13 11. That this Court order that Plaintiff may become the purchaser at the sale of the
14 Parcels on credit bid; and

15 12. That this Court award Plaintiff such other and further relief as the Court may deem
16 proper.

17
18 DATED: April 4, 2019

DOWNEY BRAND LLP

19
20 By: 

STEVEN P. SAXTON

21 *Attorneys for Plaintiff,*
22 COMMUNITY FACILITIES DISTRICT
23 NO. 1 OF THE NORTHSTAR COMMUNITY
24 SERVICES DISTRICT
25
26
27
28