

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. JENNIFER G. SCHECTER PART IAS MOTION 54EFM

Justice

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INDEX NO. 652971/2020

SHELBOURNE BRF LLC, SHELBOURNE 677 LLC,

MOTION SEQ. NO. 001

Plaintiffs,

- v -

**DECISION + ORDER ON
MOTION**

SR 677 BWAY LLC,

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2-12, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37

were read on this motion for PREL INJUNCTION/TEMP REST ORDR.

Upon the foregoing documents, it is ORDERED that plaintiffs' motion for a preliminary injunction is GRANTED.


Plaintiffs established a likelihood of success on the issue of commercial reasonability of the proposed disposition of the collateral, that they will suffer irreparable harm if the sale proceeds and they lose their interests and that the equities of merely delaying the sale weigh in their favor.

Paragraph 7 of Administrative Order of the Chief Administrative Judge of the Courts dated July 23, 2020 (AO/157/20) provides "no auction or sale of property in any residential or commercial foreclosure matter shall be scheduled to occur prior to October 15, 2020." This is not simply for safety reasons as there is no exception for virtual auctions. Though AO/157/20, by its terms, does not apply here, the same logic does. After all, valuation of an equity interest in a company that owns real estate is based on the value of the real estate itself. Severe turmoil in the real estate market due to the pandemic makes the notion of a sale resulting in payment of fair market value highly uncertain (*see* Dkt. 33 at 3). Bids will likely be discounted due to uncertainty about the continued length and severity of the pandemic (*see id.* ["it is difficult to quantify and

assess the impact that the pandemic has had and will have on the value of the property"]. Consequently, it would be unreasonable to permit the foreclosure sale to proceed on August 19, 2020 (*see* Dkt. 17). The court declines to reach the parties' other arguments.

The parties are urged to continue negotiating in good faith to reach an amicable resolution, especially as the value of property may be much lower than the total amount due on the loans, making a credit bid inevitable (*see* Dkt. 20 at 16).

Accordingly, it is ORDERED that defendants are enjoined from noticing or proceeding with a foreclosure auction of the Collateral prior to October 15, 2020. It is further ORDERED that plaintiffs shall post an undertaking in the amount of \$100,000 and this injunction shall terminate automatically on August 14, 2020 at noon if such an undertaking is not posted by that time.


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JENNIFER G. SCHECTER, J.S.C.

8/3/2020
DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
CHECK IF APPROPRIATE:	<input type="checkbox"/>		<input type="checkbox"/>	REFERENCE