

Condo and Homeowners' Association ALERT

July, 2009

TIPS FOR CONDO AND HOMEOWNERS' ASSOCIATIONS BEING HURT BY FORECLOSURES

1. Move quickly to preserve benefit of the Pennsylvania super lien.
 - Mortgage foreclosure does not remove lien for assessments for the 6 months prior to the sheriff's sale, except if paid from the sale proceeds.
 - Association must notify sheriff of the precise amount due.
 - To the extent not paid, association still has lien and can collect from purchaser.
2. If lender delays a mortgage foreclosure, no one pays the association assessments.
 - No legal remedy, even if unit is vacated.
 - Association must pursue foreclosure of its lien to force the lender to move on its own foreclosure.
3. Lenders often do not pay association assessments even after a sheriff's sale.
 - Explain that if the association cannot remain economically viable, all unit values tumble.
 - Delay in recording the deed from the sheriff does not absolve the purchaser from liability. Pennsylvania law requires the *sheriff*, not the purchaser, to record the deed within 20 days after the sale or after filing a schedule or distribution. Send the sheriff a reminder.
4. Abandoned units are not maintained.
 - If deed is recorded, the obligations under the governing documents can be enforced.
 - The law regarding a mortgagee in possession without the deed recorded is in a state of flux.
 - There are a few cases outside of Pennsylvania imposing obligations on lenders prior to a foreclosure sale.
 - Some municipalities in Florida have enacted laws to impose pre-sale obligations on lenders.

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