

Weld County Public Trustee policy on redeeming HOA liens

A Homeowners' Association (HOA), or its assignee, has the right to redeem in the most-senior junior position to the first Deed of Trust if all of the following are true:

- A) The first Deed of Trust (DoT) is the one in foreclosure, and it was recorded after the Declaration of Covenants for the HOA.**
- B) Either the DoT or the Declaration of Covenants was recorded after 6/30/1992.**
- C) There is a positive balance remaining after doing the following:
 - i) Take the amount of unpaid assessments, fines, and (unless the declaration provides otherwise), charges, late charges, attorney fees, and interest, due through the end of the first redemption period.**
 - ii) Subtract an amount equal to the common expense assessments due (paid or unpaid) absent acceleration in the six months immediately prior to the recording of the NED.****

In order to meet the requirement of C.R.S. 38-38-302(1.f) with respect to "setting forth the amount required to redeem," the Weld County Public Trustee requires all of the following to be submitted with any intent to redeem on an HOA assessment:

- 1) Evidence of lien:
 - a) If a lien has NOT been separately recorded, the original or a certified copy of the entire recorded Declaration of Covenants (a qualified holder may provide an ordinary copy)**
 - b) If a lien has been separately recorded, the original or a certified copy of the recorded lien (a qualified holder may provide an ordinary copy), along with an ordinary copy of the entire recorded Declaration of Covenants****
- 2) A notarized affidavit signed by an officer of the HOA that does the following:
 - a) Links the recorded Declaration of Covenants to the property described in the Deed of Trust in foreclosure.**
 - b) Provides the amount of unpaid assessments, fines, and (unless the declaration provides otherwise), charges, late charges, attorney fees, and interest, due through the end of the first redemption period,**
 - c) Sets forth the amount of common expense assessments due (paid or unpaid) absent acceleration in the six months immediately prior to the recording of the NED, and**
 - d) Optionally, subtracts "c" from "b" to produce the junior portion of the lien.****
- 3) A recorded assignment of lien, if applicable.**

Once we have those documents, and have verified that there is a positive balance remaining after subtracting the value of the super-priority lien, we can accept the Intent to Redeem, with a lien amount equal to the balance in C above. None of these documents need to be recorded other than the original Declaration of Covenants, and any assignment – the lien is statutory. The HOA lien is always in first position behind the first Deed of Trust, and is senior to any other Deeds of Trust.