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How to Manage the Challenge of Blight Liens When Foreclosing Real Estate Property in Connecticut

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Servicers with non-performing loans in Connecticut may find that municipal code violations exist on a property in foreclosure. Commonly referred to as “blight,” Connecticut has enacted C.G.S. § 7-148ff, which makes a blight lien a priority lien on real estate.

Blight Ordinances in Connecticut

Blight ordinances in Connecticut are enacted at the town level, and the state has 169 cities and towns. When a code violation occurs, the town or municipality typically sends a letter to the property owner and a copy of the mortgage of record.

Therefore, it is best practice to record all mortgage assignments to ensure proper receipt of any blight notices. Since blight fines accrue daily, it is important to receive these early notices to prevent the unnecessary accrual of fines.

Blight Notices and Appeal Process

A town’s blight notice letter typically provides a short period of time, typically ten days, to appeal the existence of the violation and the imposition of a blight lien. Usually, the blight lien accrues daily fines of $100 until the code violation has been resolved.

While this may sound manageable, let’s now assume that the property is occupied and the loan is in foreclosure. Connecticut is a judicial foreclosure state. When a property is occupied, a motion for access to the property should be filed, authorizing the servicer to enter the exterior of the property to remedy issues such as uncut grass, overgrown vegetation, debris, and the like.

Depending on the mortgage terms, the costs associated with remediating blight can be added to the mortgage debt after the borrower has been notified. Usually, mortgages require this written notice to the borrower, asking them to resolve the blight before the servicer can take steps to do so.

Steps for Addressing Blight

When the servicer has mailed notice to the borrower, and the blight has not been remediated, the servicer will need to address the blight and follow these steps:

Step #1: Obtain Court Order for Access

First, the servicer must obtain a court order for access to the property. Courts usually enter orders that allow access to remediate the blight. The servicer can then have a contractor address clean-up and property condition issues.

Step #2: Notify the Town

Once the property has been remediated, the town should be notified so they can inspect it and issue a letter stating that the blight has been remediated, which will stop further accrual of the fines. At that point, the town and the servicer can negotiate a monetary resolution of the blight lien to clear the title.

A new servicer may become aware of a blight situation long after the blight lien has been imposed, which may occur after a loan has been service transferred. Accordingly, some servicers may find that they are owners of a property subject to a substantial blight lien. However, it is often the case that the property remains occupied.

The title to the property does not authorize the owner to interfere with the possessory rights of the property's occupants. Therefore, blight at this stage requires the servicer to obtain a court order to remediate the blight. In addition, many towns will require counsel to appear at town meetings to provide an update on the foreclosure status and resolution of the blight condition.

Step #3: Repair and Settlement

After a court order has been obtained, the servicer can repair the property and should keep the town advised. Once the blight has been remediated, the fines cease. At that point, the town will then discuss settlement. The length of a pending foreclosure and the timeline of the blight condition will impact settlement.

Each town has the authority to settle or modify a blight lien. Some towns have a blight committee, which meets monthly, considers settlement proposals, and recommends settlements to the municipality.

Many towns will require counsel to appear at a town meeting and provide an update on the status of the foreclosure and resolution of the blight condition. Connecticut court dockets are available online, and it is common that delays in foreclosure will be discussed as part of the blight lien resolution process.

Communication and Resolution

In addition, some towns will have copies of communications with the servicer about the blight and will make note of delays in addressing the blight condition, which may impact a settlement. Occasionally, a town may allow a property to be sold in a blight condition if the buyer commits to remediating the property by a specific date. Some municipalities, like the City of Hartford, have a nonprofit that acquires title to blighted properties and works to have them remediated by new buyers seeking long-term ownership.

Communication with the town is vital in these blight liens and citation scenarios. Given the various scenarios that can unfold involving blight, servicers with Connecticut loans may benefit from having counsel manage these cases.

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