

WFG Underwriting Bulletin



To: All New York Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: February 6, 2016
Bulletin No. NY 2017-02
Subject: New York City Liens

This bulletin is a brief update on liens and notices that are unique to New York City and commonly show up in our title examinations:

Emergency Repair Liens: When entered as a dollar amount in the Emergency Repair Department these are super liens which address emergency building conditions. They will appear in a separate Emergency Repair search, not in a regular judgment search. Emergency Repair charges for work performed by the city are invoiced and if unpaid are transferred to the Department of Finance and will appear on the property tax bill. As a super lien these cannot be cut off in a foreclosure proceeding and they have no expiration date. A separate Emergency Repair search must be ordered for all New York City titles.

Unsafe Building Lis Pendens: HPD may file a Lis Pendens for unsafe building conditions. This must be cleared prior to closing by obtaining a "consent to cancel Lis Pendens" from HPD. The city will require an inspection to determine that the condition has been remedied and all fees are paid. That consent must be filed with the county clerk. An unsafe building Lis Pendens may not be cut off in a foreclosure action. Although, a Lis Pendens normally is notice for three years, the City has taken the position in the past that this notice is not governed by the Lis Pendens statute, and it should not be marked omit without a discussion with underwriting counsel.

Vacate Orders: The city may issue a vacate order or order to correct to ensure public safety from damaged buildings, illegal or dangerous conditions that may exist on or near the property. A vacate order must be removed prior to closing by contacting HPD or it must be excepted in the final policy. Please note that a vacate order cannot be cut off in a foreclosure action. They often result in a relocation lien, below.

Relocation Lien: This is a lien filed for the expenses incurred relocating tenants from an unsafe building. This must be paid prior to closing. If there is a vacate order or other indication of unsafe conditions at the property we should be aware that there may be relocation expenses for which the city has not filed a lien but for which they have incurred expenses. It is very important that the city is contacted to determine if there is a relocation lien that is not yet in the public record. A relocation lien is valid for 10 years and may be refiled for an additional 10 year period.

Environmental Control Board Liens (ECB): ECB liens are treated as money judgments. They affect all property owned by the individual or entity regardless of the property address listed on the actual lien. These must be paid or an escrow may be taken to pay at closing. ECB liens are liens for 8 years from the date of filing.

Parking Violations Bureau Judgments (PVB): These are treated as judgment liens, although they are liens for only 8 years. However, the liens do not have docketing dates, so it is often impossible to tell if the 8 years have run.

Transit Adjudication Bureau Judgments (TAB): These are money judgments having the usual lien period for money judgments of 10 years.

Sidewalk Violation Notice: These are notices of a violation, rather than liens. However, under the terms of the owners and lenders policies, these notices are covered items (found in the land records) and must be disposed of. Additionally, if the work required by the notice is not done by the owner, the city may perform the work and the charges will be levied as taxes and revert back to the original date the notice was filed. Although they will appear in the same index as a Lis Pendens, showing a three year expiration, they do not expire.

Please contact underwriting counsel with any questions.

All New York Underwriting Bulletins and forms may be accessed at the New York section of our Underwriting Library at: <http://wfgunderwriting.com/new-york/>

NOTE: The information contained in this Bulletin is intended solely for the use of employees of WFG National Title Insurance Company, its title insurance agents and approved attorneys. Disclosure to any other person is expressly prohibited unless approved in writing by the WFG National Title Insurance Company's Underwriting Department.

The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.