

# HOA Home Foreclosure Equity Protection ExhibitJoin Zoom

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Examples portraying: setting the opening bid, amount of equity protected and distribution of foreclosure proceeds

Key to using table:

HOA Total Liens 10,000 (1,800 super lien + other debt 8,200)

HOA monthly assessment: 300

HOA Super Lien 1,800 (maximum is equal to an amount not to exceed 6 months assessments  $6 \times 300 = 1800$ )

Remainder of HOA Liens 8,200 ( $10,000 - 1800 = 8,200$ ) paid in priority: taxes, super lien, first mortgage, 60% equity and then remainder of HOA debt not included in super lien.

Opening Bid calculation: total of taxes + super lien + 60% homeowner equity + first mortgage. The total will of these items is the minimum sales price. Thus the opening bid and minimum sales price are the same and and guarantee the payoff of taxes super lien, 60% equity and first mortgage. Any proceeds remaining (when the sales price at auction is greater than the minimum sales price) will be applied first to the remaining HOA debt (HOA total lien less super lien) and then to liens based on criteria such as date when lien was filed and other criteria in current foreclosure law. Any remainder of funds after settlin liens belongs to the homeowner.

### Examples

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Home market Value	HOA Total Lien: (SuperLien 6 X 300) + HOA other Debt 8,200)	Super Lien 1800 (6 X 300) + Taxes of 2,000	First Mortgage	Homeowner Equity (1) - (3) - (4)	60% Equity 60% X (5)	Opening Bid (3)+(4)+(6)
400,000	10,000	3,800	150,000	246,200	147,720	301,520

Distribution of Proceeds, Priority Order: Items (3) , (4), (6) (3,800,150,000,147,720)

Remainder of HOA debt 8,200 settled, in part or whole, after items 3, 4, 6. This would only occur when there is an overbid (sales price greater than opening bid)

### Examples Continued

(1)	(2)	(3)	(4)	(5)	(6)	(7)	
Home market Value	HOA Total Lien: (SuperLien 6 X 300) + HOA other Debt 8,200)	Super Lien 1800 (6 X 300) + Taxes of 2,000	First Mortgage	Homeowner Equity (1) – (3) - (4)	60% Equity 60% X (5)	Opening Bid (3)+(4)+(6)	
400,000	10,000**	3,800	250,000	146,200	87,720	341,520	
400,000	10,000	3,800	350,000	46,200	27,720	381,520	
400,000	10,000	3,800	450,000	0	0	453,800	See item (1) Below

**Notes:**

- (1) Prior to the HOA filing for foreclosure, it should compute the minimum sales price/their opening bid and decide through negotiating with the homeowner alternatives and less costly means of collection. A solution can often happen after homeowner credit counseling where alternatives to foreclosure are presented to the homeowner for presentation to the HOA Board.
- (2) Most properties with little to no equity can result in an HOA **not** filing the foreclosure as the minimum sales price doesn't allow for a favorable sales price at the HOA home sale auction. In such cases HOA collection may require a negotiation with the homeowner to pursue another type of collection action to even include the homeowner to reduce the amount/percentage of equity protected: this results in a lower opening bid. Note, opening bid is submitted by the HOA and with no other bidders the HOA becomes the new owner of the property at a price that can result in the HOA having difficulty in selling the home on the open market. Thus, the minimum sales prices and options to foreclosure offered the homeowner during credit counseling can drive down the number of HOA foreclosures and costs to both the HOA and homeowner. In addition, costly attorney fees can be avoided by the HOA by avoiding their foreclosure action.
- (3) The homeowner must agree in writing to (a) any revised minimum opening bid resulting from the formula in this proposal or (b) to settle for less than the 60% equity amount used in the formula to compute the minimum opening bid. Thus, if the HOA decides to proceed with the foreclosure, it will accept the computed minimum opening bid or approved modified opening bid or not proceed with the foreclosure. The HOA has the option to collect delinquent assessments by other than foreclosure through the court system, collection agency and other available options identified during credit counseling.
- (4) If the HOA wins the bidding, upon possession they can sell or rent the property.

**The priority of lien settlement in an HOA foreclosure sale:** taxes, HOA super lien, first mortgage, 60% of homeowner equity followed by any debt to the HOA remaining after the super lien has been settled followed by all other subordinate liens

**Homeowner equity equals market value of home minus the amount of delinquent taxes, super lien and first mortgage.**

**Homeowner debt to the HOA may not include more than \$2,500 in attorney fees. Attorney fees incurred greater the \$2,500 will be payable by the HOA and not included in the foreclosure transaction.**