

California Non-Judicial Foreclosures: Law and Practice

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Presented to:

City of Los Angeles Housing Department
and the
Office of the City Attorney of the City of Los Angeles

Source Material

California Foreclosure: Law and Practice, author Sheinman
CEB Action Guide - Handling a Real Property Foreclosure
Matthew Bender's Calif. Real Estate Law and Practice
CEB Mortgage and Deed of Trust Practice

To Dos

meet with Virginia, confirm her attendance, get outline and her topics to her

witness a trustees sale

call Sheinman re 3 options for non-monetary notices, also Chi. title

LN - see some cases

Relevant Civil Codes off Net in full, orderly, current text

later - MCLE credit available via City Atty's. office; add to resume

OUTLINE

I. Introduction (material and handouts)

II. The Obligation

Promissory Note

Loan Agreement/Regulatory Agreement

key, typical clauses:

defaults
remedies
acceleration
notices
addresses

III. The Deed of Trust

Forms - standard City form, standard title company form

Trustee - can be Lender, but risks - see AG at pg. 6
Address for NOD to trustor - GC 27321.5, CC 2924b(d)

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Key, typical clauses -see II. above
Additional Security, Other Clauses - AG at pp.
7-8

IV. has there been a Default?

monetary - easy to determine, but look for waiver
non-monetary - subjective breaches
-monetize instead? AG at p.33

V. Amounts due

AG at p. 32
Sheinman at Ch. 5, and note import re overstating and credit
bids

VI. Acceleration

see contract clauses
see AG at pp. 84-85
see Miller v. Coto case

[examine other remedies, judicial foreclosure, receiver - AG step
7,8, p.38-top of 39,41-top of 43

consider workout, extension]
[misc. issues -mixed collateral
forbearance agreements}

[bankruptcy effects - AG - Impacts "5b",
note that BK discharges deficiency j'ment, therefore less viable to
go judicial AG at p.65]

[TIMELINE]

VII. Preliminary Notice

See LAHD "courtesy" letter
FHLMC/FNMA requirements
AG at p. 73, see Lipertino case
See std. LAHD req. prelim notice and letter
Example of letter with acceleration

VIII. substitution of Trustee

title company forms and info

IX. Request to Prepare NOD
title company forms and requirements

X. TSG/Date Downs

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Title company
AG at p. 79

XI. Notice of Default

Stat. 2924, 2924b, 2924c(b) (1) of Civil Code
AG at p. 83 -complete
-inclusive
-accurate

XII. Non-Monetary Breaches

- monetize
- describe breach and cure
- accelerate and set forth entire balance

see Schoolcraft case, 81 CA 3d 75 (1978)

XIII. Mail, Record NOD
title co.

XIV. Notice of Sale - record, mail, publish, post

title co.
state material facts for disclosure - Ag at p. 89, 95

XV. Federal Tax Lien

title co.

XVI. Postponements
AG at pp. 93-94

XVII. Bidding Strategy

AG at p. 97

XVIII. Trustee's Sale and followup

title co.

XIX. Trustees Fees

title co