



Wisconsin Mortgages: Properly Identifying the Lender's Address

An integral part of the value we deliver to our lending clients on commercial loan transactions is effectively drafting (or revising to the extent we are acting as local real estate counsel) loan documents that navigate the ever changing landscape of Wisconsin law. One way that we deliver this value is through vigilant monitoring of new case law.

For example, a recent Wisconsin appeals court, *Juneau County v. Associated Bank, N.A.*, 2012AP1304 (Jan. 31, 2013), ruled *in favor* of Juneau County's foreclosure of a tax lien on two pieces of property encumbered by mortgages held by Associated Bank (Bank) despite Juneau County's (County) failure to provide direct written notice to the Bank of the tax lien foreclosure proceedings.

This ruling arose for basically two reasons: (i) the Bank did not include a notice address in its recorded mortgages securing its collateral, and (ii) the court found that "the County was not required to expand its search for the Bank's address beyond what was ascertainable directly from the records relating to the two affected lots located at the office of the register of deeds."

Whether or not it is good public policy to eliminate a lender's collateral for failure to include a notice address in a mortgage is debatable. However, as a practical matter, it is important for all lenders, and other secured parties, to properly identify their notice address on any future documents filed with a Wisconsin register of deeds office.

In regards to existing mortgages containing omissions or inaccuracies, secured parties should initiate an internal review to confirm their addresses are properly identified. If there is a problem identified, an affidavit of record referencing the applicable document and correcting the error can be used to avoid the harsh result discussed above and preserve collateral.

If you have questions about this e-alert, please contact your Reinhart attorney or any member of the Reinhart Real Estate Opinion Team.

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