# VA Lenders Handbook (VA Pamphlet 26-7), Chapter 9, Topic 7 — Liens Covering Community-Type Services and Facilities

Register va-m26-7-ch09-t07

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7. Liens Covering Community-Type Services and Facilities Change Date July 30, 2019 • This chapter has been revised in its entirety. a. Policy Loans for the purchase and construction of homes will be first liens, subject only to taxes, special assessments, and ground rents. VA will not approve superior liens in favor of private entities unless they: • are legally or practically necessary, and • result in no prejudice to the Veterans or the Government. b. Requirements The lender must obtain VA prior approval of liens held by private parties which are superior to VA home mortgage liens. Liens held by mandatory membership home associations in planned unit developments are not addressed in this topic. The lender must demonstrate that: • it is not legal or practical to subordinate the superior lien to the VA mortgage, • there is a viable rationale for not subordinating the superior lien, • the superior lien will not prejudice Veterans or the Government, and • if periodic charges or assessments are involved, the amounts are reasonable and limits on the amounts have been established. c. VA Approval Always obtain VA approval before the lien is recorded. Builders and developers should be aware that if they plan to market properties through VA financing, covenants creating superior liens should not be recorded without VA approval. Continued on next page VA Pamphlet 26-7, Revised Chapter 9: Legal Instruments, Liens, Escrows, and Related Issues 9-13 7. Liens Covering Community-Type Services and Facilities, continued d. Examples VA may find the following types of superior liens acceptable (38 C.F.R. 36.4356): • Liens for taxes, assessments, and ground rents. • Liens by private entities to secure assessments or charges for municipal- type services and facilities which: o are clearly governmental in nature, and o a municipality could support out of public tax revenue if it provided the service, but the municipality does not provide them. • Liens to implement or augment a service or facility if the government's provision of such service or facility is inadequate. • Liens for services or facilities in locations where the services or facilities are adequately supplied by local government generally will not be approved by VA. • Liens created by recorded covenants in favor of private entities to secure the homeowner's share of the costs of the management, operation, maintenance, services, or programs for the benefit of a development. • Liens (on existing properties) previously retained by trustees, improvement associations or other nongovernmental entities for community-type services and facilities in a given area or subdivision, such as maintenance of streets, parkways, playgrounds, water systems, sewage systems, police and fire protection, or street lighting. VA Pamphlet 26-7, Revised Chapter 9: Legal Instruments, Liens, Escrows, and Related Issues 9-14

*Source: VA Lenders Handbook (VA Pamphlet 26-7), Chapter 9, Topic 7 — Liens Covering Community-Type Services and Facilities · snapshot 23782f6842a5daf5*