

Title

FREQUENTLY ASKED ^ QUESTIONS

July 2012

Q Our tax search indicates that the property is subject to an unconfirmed assessment. Do we have to address this in the commitment or can we disregard it since it is “unconfirmed”?

A You cannot disregard it.

Municipalities pay for improvements such as new curbs, sidewalks, sewer systems, etc. by assessing the cost of those improvements to the property owners who benefit from the improvement. In order to do so, the municipality adopts an ordinance approving the assessment which is in addition to real property taxes. Before the improvement is completed, the assessment is known as “unconfirmed”; once the improvement is completed and the municipality determines by subsequent ordinance how the cost will be divided among property owners, it is known as “confirmed”.

N.J.S.A. 40:56-33 provides that the assessment becomes a lien on affected real property with the adoption of the ordinance approving the proposed improvement. The subsequent ordinance merely apportions the actual cost of the improvement among the affected real properties.

Thus, an unconfirmed assessment is a lien on real estate from the moment the ordinance approving the work is adopted; the fact that it is “unconfirmed” only indicates that the amount of the assessment is unknown.

Accordingly, any time a tax and assessment search indicates the existence of an assessment, whether it is confirmed or unconfirmed, a specific exception for the assessment must be taken in any commitment to insure the affected real property. The exception may only be removed upon proof of payment in full of the assessment or upon establishment of an adequate escrow. If the latter course is chosen because the municipality has not yet confirmed the assessment and established the payment value for the property in question, a member of our underwriting staff should be consulted.

As always, feel free to address any questions to a member of our underwriting staff.