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## Liens

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It is a common perception that lienholders like to be paid first when a property owner is compensated following the acquisition of property. However, California's Eminent Domain Law thinks differently when only a partial taking occurs.

Section 1265.225(a) of the Code of Civil Procedure provides that, when only a partial taking of property occurs, a lienholder may share in the award only if its underlying security interest is impaired. In other words, if the value of the remaining property equals or exceeds the outstanding amount owed on the lien, then no portion of the just compensation is apportioned to the lienholder. If the parties cannot agree, this determination is made by the court.

Subsection (b) to Section 1265.225 allows the lienholder and property owner to make any agreement otherwise. To this end, lienholders often include in the initial signed loan documents language redistributing in their favor the amount of any future award of just compensation, even where only a partial taking occurs.