



The White Picket Offense: Homeowners' Associations Crack Down

Homeowners' Associations Sweat the Small Stuff, Leading to Court, Foreclosure for Rule Breakers

By LYNEKA LITTLE

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Carole and Morgan Christian worried about the safety of their kids because drivers constantly exceeded the 25 mph speed limit near their home.

To protect their children, the two picked up a neon "kids are at play" caution sign from a Toys R' Us and placed it in the middle of the street, hoping to deter drivers from clocking in at 40 mph. Before long, the Carlsbad, Calif., couple received a letter from the Ponderosa Country Homeowners Association demanding that the sign not be displayed during the children's outdoor playtime.

Although aware of the lawbreakers in cars, "the [Homeowners Association] said you can't put the signs up because the signs are safety hazard," says Christian.

Welcome to the tightly-regulated world of communities with homeowners' associations. These groups govern and manage residential communities, creating rules about everything from the color of paint on houses to trash pickups, parking on the street and much more. Nationwide, some 60 million people live in these associations.

The Christians learned how a minor issue can come with the threat of a monetary retribution. For the moment they've decided to heed the local police department's advice to place the signs on the curb or on the side of the road.

This couple is hoping that moving the signs will de-escalate the situation with their HOA. But across the country, such minor disputes have snowballed to the point where fines reach into the six figures, houses are foreclosed, homeowners sent to jail for small infractions, even spiraling into violence.

In some cases it's the HOAs that are themselves suffering from a souring real estate market. When houses go into foreclosure the homeowners stop paying their monthly dues to the association. That has caused some financially struggling HOAs to get more aggressive when pursuing rule breakers as they as they attempt to stay afloat.

In North Carolina, Peter Darius accrued fines from his homeowners association for unpaid dues and other violations including a notice for building a white picket fence. A few days shy of his eviction for owing close to \$25,000 to the HOA, the 66-year-old with a history of mental illness doused his home with flammable liquids and set it ablaze, ending his life and the battle, according to the [Star-News Online](#).

"We've seen everything, but the last two years have been particularly unique" as homeowners become more frantic and the volume of foreclosures increases across the United States, says Helio De Le Torre, a partner at Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A, a firm that represents homeowners and associations. While there is little nationwide data on cases between homeowners and homeowners associations, losing a home for HOA fees has become another reason to fret after years of worrying about the prospect of losing a home over unpaid or late bank mortgages.

Helen Burgess knows the extreme measures associations can take for late bills. When the breast cancer survivor was unable to negotiate a payment plan for her condo fees following surgery, Burgess found herself locked out of access to the community clubhouse and carrying water 10 miles after the association cut off her water, the 59-year-old told The Atlanta Journal-Constitution.

The organizations designed to minimize crime, repair roads and take care of the pool house, are increasingly taking legal steps that can put some homeowners in the courthouse. Like the case of a Florida grandfather who reported to jail, heart medication in hand, after economic troubles made it difficult for him to abide by a court order to take care of the browning grass at his Beacon Woods home.

Joseph Prudente told the St. Petersburg Times that he simply wasn't able to resod his lawn. Keeping up the payments on his home, he argued, was more important than meeting the standards set by his deed-restricted community. A judge disagreed and ordered him to jail. Strangers and neighbors later pitched in to fix his lawn, springing him from jail.

How HOAs Operate

Before purchasing a home, a home buyer receives a deed restriction that states the requirements placed by the homeowners association, which are made when the property is constructed, says Dave Anderson, creative director at HOA Management.Com.

Knowing your community's policy and your state real estate laws is important. "Oft-times homeowners are disregarding the first notice about a late payment or a violation, which then can lead to a lien and sometimes to foreclosure, which why it's important to communicate with the board," says Anderson.

Although banks may step in to stop a HOA foreclosure because they have first lien on a property, associations can make life difficult for those who don't comply with the rules.

About the fight with her HOA, Burgess told the AJC, "Going through this is more frightening than when I went through breast cancer." But from the associations' point of view the rules benefit everyone.

"The rules are the rules. Similar to laws that govern towns, it's the same thing with an association, each member has to follow [the bylaws] whether they're upside down or current on the payment. We still have to enforce the rules," says Sharon Johnson, owner of the Community Association Management Services based in California.

The association, which manages 12 communities, sends out policy updates annually, and allows homeowners to meet with the board to come up with payment arrangements if necessary.

However, sometimes policies don't allow for negotiations. For the HOAs that have to make tough decisions, "Would you be willing to defend what you're willing to do in front of judge," asks Anderson.

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