

DAILY BUSINESS REVIEW

LAW ■ REAL ESTATE ■ FINANCE

NOVEMBER 14, 2007

www.DailyBusinessReview.com

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REAL ESTATE

Collateral damage

Condos with excessive foreclosures face association-fee shortfalls, struggles to pay for upkeep

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Residents of the Club at Brickell Bay Plaza condominium came home one day to find they had no cable or Internet service, the result of the condo association falling months behind on payments to provider Primecast.

It was the latest service snafu for the troubled building and its association, which is struggling to make ends meet as many unit owners fail to make their monthly maintenance payments.

"We are victims" of speculators who bought condos intending to flip them but got stuck with the units after the prices peaked, said Diana Ospina, association president at the Club at Brickell Bay.

The Club at Brickell Bay is one of many condos struggling to maintain buildings and resident services as foreclosures skyrocket and owners of those units stop paying their condo assessments.

The Club at Brickell Bay has one of the highest foreclosure rates in South Florida. And the owners of the foreclosed units are not paying their maintenance or have fallen behind, Ospina said.

The bill for the Club's cable and Internet service is more than six months past due. Ospina declined to

say exactly how much is owed.

Primecast sent a letter Oct. 31 warning residents that they risked a cutoff for nonpayment, and on Nov. 6 the service was discontinued.

The association's board of directors was able to negotiate a one-month reprieve. Primecast restored the Internet and cable, but just a fraction of the previous 70 channels.

The board and Primecast are working on a payment plan to keep the services running after the month is up.

Foreclosures and delinquent dues are increasingly putting pressure on condo associations' operating budgets. One option is to force the owners who are paying their bills to pick up the tab for the units in default.

Maintenance payments are a condo association's primary revenue source.

Cautious lenders see buildings with a large number of foreclosures as poor bets, making it even harder for buyers to secure mortgages and for owners to refinance.

Short-term investors flocked to South Florida before the height of the development boom in 2005. Rapidly appreci-



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Mortgages on more than 10 percent of the units in the Club at Brickell Bay Plaza are in default.

ating units resold repeatedly for hefty profits until the market dried up.

Many owners who never meant to keep the units for long eventually fell behind on their mortgages. A total of 5,784 foreclosure cases were filed in South Florida in October, beating the 5,533 filings in July for the worst month this year, according to Daily Business Review data.

As of September, the Club at Brickell Bay had the most condos being foreclosed in Miami-Dade County. In October, lenders filed 12 new notices of foreclosure against Club at Brickell Bay units, bringing the number of units in default to as many as 66, or more than 10 percent of the 643-unit building.

Ospina said her board also is having trouble collecting from investors and foreign owners who show no interest in paying monthly dues or are unaware of their responsibilities. They are paying lenders, but they aren't paying their association dues.

More than 20 percent of the owners are behind on payments, she said.

Owners pay from nearly \$300 to about \$600 in monthly dues depending on the size of their units. So far this year, the association has filed liens on 50 units totaling \$224,797 in past-due payments.

One solution is to aggressively collect overdue maintenance fees from owners who can pay, said attorney Helio De La Torre, whose firm Siegfried Rivera Lerner De La Torre & Sobel in Coral Gables represents several associations in the Brickell area.

His clients, including the Club at Brickell Bay, seem to be following his advice.

"We are filing more liens than we ever did," he said of his clients. "We filed 1,700 liens in a three-month peri-

od this year. In the past, we used to file a couple of hundred a month."

But liens aren't always the answer. If a lender files for foreclosure before an association files a lien, associations may be running up unnecessary legal fees, De La Torre said.

Lenders typically get priority in recovering their money, leaving associations and others whatever is left after mortgages are satisfied — if there is enough money to cover the loan.

De La Torre said associations at several new high rises in the Brickell area are struggling because of past due maintenance fees, but he declined to name them.

The Review last month reported nearby Vue at Brickell and Jade Residences at Brickell Bay are among the county's foreclosure leaders.

State Rep. Julio Robaina, R-Miami, said his office is getting more calls from associations throughout Miami-Dade with similar concerns about foreclosure filings.

"New condos with a lot of speculative buying are in a very bad situation," said the longtime champion of condo reform.

Troubled associations may have to pass special assessments to catch up with overdue bills or have a court-appointed receiver take over if association boards are unable to stabilize their budgets. But receivers add to operating costs.

"If associations don't find a way to fund their operating budget, things in the building will be neglected," he said. "If that happens, the city and fire department could go after them and shut a building down for [safety] violations."

Bill Raphan, Florida's assistant condominium ombudsman, said condo boards will keep feeling the pain of foreclo-

sure.

"This is only the beginning," he said. "This is going to blow up to become a major problem."

Foreclosures are also hurting the borrowing power of owners and buyers.

David Wick, president of the Boca Real Estate Investment Club, said he recently tried to help a client refinance her adjustable-rate mortgage into a fix-rate loan. But the lender saw a large number of delinquencies of association dues and walked away.

"There is a certain level of risk that banks are not willing to take on," mortgage broker Vivian Block said.

She knows the situation well. In May, Block applied for a mortgage to buy a unit in a condo conversion project in Broward County.

The bank initially rejected her request after learning five units in the 80-unit high rise were being foreclosed.

But the president of Block Mortgage in Hollywood didn't take no for an answer. She researched the owners of the troubled units and realized a single investor owned them all.

"I made the bank aware that the problem was the investor, not the building," she said. "I showed them the risk level wasn't as high as they thought it was. They agreed, and I bought my condo."

At Club at Brickell Bay, the board is trying to find a way out of their financial troubles.

Ospina said her year-old board has yet to decide what to do next. For now, the association is trying to grasp its finances and find ways to cut costs.

"We are trying to see how much money we owe and go from there," she said. ■

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