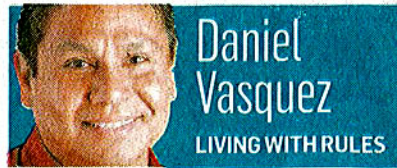




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Evicting squatters takes time and money

Has a squatter moved into your community?

That's the case for The Circle Villa Condominium Association in Lauderhill. "We have at least several unit-owner squatters and one renter squatter," said Dorine Neal, president of the 96-unit condo association. "The numbers are growing in this economy."

As if cash-strapped community associations faced with foreclosures, delinquencies and non-paying owners didn't have enough to deal with, increasingly some are stuck with squatters.

In some cases, squatters are owners of units in foreclosure who stop paying mortgage or maintenance fees and leave their electricity, cable and water bills for the rest of the association residents to pick up while they live cost-free. In others, they are holdover renters in units or homes in foreclosure who stay put without paying a dime in rent or other fees.

"We do hear stories of owners or even tenants living in units that have been foreclosed on or abandoned. They are basically squatters," said Bill Raphan, a South Florida supervisor with the Office of the Condominium Ombudsman. "Unit owners are furious at their boards for not taking action. Boards are saying that it is a tedious and costly project getting them evicted."

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Several options to deal with squatters

Unfortunately, associations have to spend a lot of time and money to get rid of squatters.

In the case of Circle Villa, said Neal, it took about seven years and \$14,000 in attorney fees to evict one squatter. "And yes, we are looking to have more evictions," said Neal. "We need the income and if we can get them out and get paying renters or owners in, we're more than gung ho to do it."

Earlier this year, state legislators dropped the ball by not passing a bill that would have allowed associations to collect the rent directly from tenants when owners are delinquent. But, experts say,

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there are ways to get that accomplished through governing document changes and other legal arrangements.

What to do

First an association must determine if its governing documents provide the authority to approve the occupants of a given unit. "Without a provision in the declaration of con-

dominium or covenants that empowers the board to review applications for sale or lease and approve occupants, the board would have no authority to take any action to [remove] an occupant," said Robert Kaye, a Fort Lauderdale attorney who specializes in community association law.

File a lien

In cases where associations don't have eviction powers, Kaye said the only available remedy for the association is to pursue its legal rights in civil court against units in delinquency. The effort entails filing a lien on the unit, foreclos-

ing on the lien and ultimately taking title of the unit. Once the association is the owner, it can take action to remove unauthorized occupants with a writ of possession, which takes only a few days to complete in court.

Time frame, cost

For a condominium, the entire process could take six months or longer to complete and cost approximately \$3,000 in fees and legal costs. For a homeowners association, the time frame is at least 30 days longer since the two pre-foreclosure letters Florida law requires must be sent by the association

45 days apart rather than the 30 days required for condos.

Even when an association has the authority to approve tenants or renters, the governing documents will have to be checked to make sure the association also has the authority to evict unapproved occupants. If not, an option is to pursue a more lengthy legal process of filing a lawsuit to obtain an injunction against the owner and unapproved occupants and eventually force their removal.

Eviction is a specialized process in the courts that is geared to move faster (called "summary proceeding"), and in most

cases, can be completed within two months. The standard litigation process can take somewhat longer, although the ultimate result should be the same.

Quite often, when the unapproved occupants are served with a lawsuit, they will leave rather than become involved in the legal process.

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