

REAL ESTATE

3 ways to save your condo community

By Susan Ladika • Bankrate.com



Highlights

- Growing number of condo associations struggling to pay bills.
- Peer pressure and legal action may sway deadbeat owners.
- Bankruptcy a last-ditch option for some associations.

Condominium associations across the nation are struggling to pay their bills as cash-strapped owners fall behind on monthly dues.

For now, most associations are finding ways to survive, says attorney Matthew Zifrony, who heads the real estate practice group at Tripp Scott law firm in Fort Lauderdale, Fla.

"It's rare that an association gets to the point where it just can't pay basic utilities," he says.

However, the picture could darken if unemployment continues to climb and foreclosure rates soar higher.

What can you do when the condo community can't pay its bills? Here are three possible solutions:

Get aggressive with deadbeats

If monthly dues delinquencies begin to spike, it's important to take matters into your own hands, says Robert Levin, president of Wolin-Levin Inc., a condo management firm in Chicago.

"The board of directors in buildings must be very aggressive to get assessments paid," he says.

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That might mean establishing payment plans for owners who are 30 days late on their payments. Once the owner falls 60 days behind, it's time to turn the matter over to an attorney, Levin says.

Christopher Hunter, an attorney who heads Morgan Miller Blair's real estate practice in Walnut Creek, Calif., agrees that an aggressive approach to collecting dues is vital; otherwise, it "can lead a project into a death spiral."

If one person doesn't pay his or her dues, assessments might be increased against the remaining owners. Or, in other cases, a costly one-time special assessment might be levied. And that may mean more people unable -- or unwilling -- to pay.

"You're really relying on all your fellow owners ... to step up," Hunter says.

Sometimes, owners and condo boards can get results simply by applying good old-fashioned peer pressure to get wayward owners to pay up.

Christy O'Neill, director of Lofty Ambitions, a financial management company for small complexes in Atlanta, has seen situations where neighbors talk to delinquent owners and "that has actually shamed some people into paying," she says.

The situation may be more complicated in communities where many owners are investors who rent out their unit, pocket the money and never pay the assessments.

Cut back services

Nonpayment problems can be especially damaging to smaller complexes, O'Neill says.

For a large project with 300 units, if a handful of people stop paying, "it affects the budget, but it's not catastrophic," she says.

On the other hand, if a development only has 25 residences and five owners stop paying, "the impact on the bills is swift," O'Neill says.

In such situations, complexes can save money by making tough decisions -- such as going from weekly landscape maintenance to biweekly, or to community work days, where owners get together to do the work themselves.

"Every dollar you don't have to spend is a dollar you can keep to operate," she says.

Deferring certain projects, such as installing new lighting, also can save money. But some projects -- such as repairing a roof leak -- must be completed to avoid legal action, O'Neill says.

Throw in the towel

In recent months, a handful of associations have admitted defeat and filed for bankruptcy. Associations typically take this step because of debts to large creditors or unpaid legal judgments.

Most associations want to reorganize under Chapter 11 and continue on as a viable organization without hefty debts hanging over their heads. By filing Chapter 11 bankruptcy, they live to fight another day.

The association at Boca Village in Boca Raton, Fla., is among those that have thrown in the towel.

Robert Kaye, managing member with Kaye & Bender in Pompano Beach, Fla., who represents the Boca Village association, says the development has been plagued by a large number of delinquencies, coupled with a lawsuit by a roofing contractor over unpaid work.

Boca Village decided to file for Chapter 7 bankruptcy protection. In this type of bankruptcy, a new association is created and the old one is liquidated.

In a bankruptcy, a trustee oversees the debt, while the board generally continues to operate the association. In such instances, Kaye says utilities are unlikely to be shut off.

"You have to go through bankruptcy court before taking any drastic measures like that," he says. "I don't think the court would allow them to just shut down the electricity or water."

So far, South Florida is ground zero for association bankruptcy filings. The legal outcomes of pending cases will determine whether the trend of associations filing bankruptcy spreads, Zifrony says.

The courts may decide to hear the pending cases, or decide it's not their role, says Zifrony, who represents two associations considering filing for bankruptcy.

"This is an unknown area," he says.