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FRONT PAGE BUSINESS SECTION



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Sheriff sent to pick up delinquent condo investor

A Broward circuit court judge sent the sheriff out to get a condo investor because he failed to appear in court to explain why he wasn't turning over rent to cover his past due association fees.

BY MONICA HATCHER

Condo investors delinquent on association fees could face jail time for thumbing their noses at court-ordered blanket receiverships.

In a new first for distressed condo associations, a Broward circuit court judge last week commanded the sheriff, via a writ of bodily attachment, to physically bring owner Timothy Mohn to court to explain why he should not be found in contempt for failing to fork over rent to a receiver on two units he owns in the Villas de Venezia in Sunrise.

Mohn missed a court date last week prompting the writ. The likely reason: He's been sitting in Broward County jail awaiting trial on other charges since early December. His attorney could not be reached for comment.

Ravi Batta, a debt collection lawyer with Rosenfeld Stein Batta in Miami, said the situation is not uncommon. Writs of bodily attachment are issued when people fail to appear in court as witnesses, for instance.

But attorneys for Villas de Venezia condo association claim the writ dem-

onstrates more than that -- namely, the sharp teeth of blanket receiverships and just how serious judges are taking their enforcement.

The receiverships represent the latest legal strategy of struggling condo associations to collect rent from tenants whose landlords are behind on condo fees and subject to foreclosure by the association. They have become a critical tool in collecting maintenance fees from delinquent owners.

The fees pay the electric, water and insurance bills along with other critical expenses necessary to operate the buildings.

Ben Solomon, a partner with Association Law Group and the attorney for the Villas, said the writ would have represented the first time that "a foreclosure debtor may be put in jail for a foreclosure-related issue."

The Villas de Venezia, located in the 9900 block of Nob Hill Place in Sunrise, got a blanket receivership in July.

At a separate hearing in November, Judge Lynch gave Mohn 10 days to pay the receiver rents past due and rents going forward on a timely basis. He didn't,

according to the Solomon, prompting Thursday's hearing and the writ asking the sheriff bring him in. A writ of bodily attachment is not an arrest in the typical sense, but the sheriff does go to collect the person and forceably take them to court. They are handcuffed and placed in a patrol car, Solomon said. If the judge is unable to see them, the person waits in jail, where they could spend the night.

As Mohn is awaiting trial on other charges, he'll likely see the circuit court judge when those issues are resolved.

Solomon pointed out that under a receivership, unit owners pay a court-appointed representative and not the association, its attorney or a collection agency, which raises the level of enforceability if they don't pay up. Judge Lynch's order should be a wake-up call, since judges rarely resort to sending the sheriff out in real estate-related civil cases, he said.

"Hopefully, this will send another signal, at least symbolically, to the real estate market that owners and their tenants are going to have to comply with these court orders or face being held in contempt and put in jail," Solomon said.

