

3rd DCA upholds use of condo receivers

BY PAUL BRINKMANN

Condominium associations faced with increasing delinquencies now have an appellate court ruling that backs their right to appoint receivers to collect rent on delinquent condo units.

Florida's 3rd District Court of Appeal recently validated the use of "blanket receivership," which has been used by at least 18 condo associations in Miami-Dade and Broward counties.

Blanket receivership allows a court-appointed receiver to collect rent directly from tenants when their units are in foreclosure.

The appellate court denied an appeal from a condo unit owner at the Village at Dadeland, who protested the appointment of a receiver because he said he was not given proper notice.

According to motions filed by the condo association, the unit owner owns 17 condos at the Village and was delinquent on his association fees, even though he allegedly received rental income from the units. The condo association had filed foreclosure actions against the 17 units.

"The court decided unanimously to deny the unit owner's petition. This will put an end to him collecting rent while being under foreclosure," said Ben Solomon, a member of the Association Law Group of North Bay Village, which has handled several receivership appointments for condo associations. "This opinion is essentially binding on any lower court, and its very persuasive in any other district in Florida, as well."

According to the association's court responses, it was facing extreme financial hardship because 267 of the 410 condominium units were 60 days or more delinquent in the payment of maintenance assessments. The delinquency totaled \$863,063, preventing maintenance of the common property.

Solomon said the right to collect rent ends when the debtor's obligation to the association is met.

Another condo receivership Solomon's firm handled, at The Oaks at Miami Gardens, has more than doubled the association's monthly income since appointment of the receiver in March, according to a news release.



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