

## Court Ruling Helps Community Associations Crack Down on Deadbeats

Court filings aid associations through 'blanket receivership'

By Daniel Vasquez

A South Florida court last week threw its weight behind a new legal strategy aimed at helping cash-strapped community associations fight back against deadbeat investors. It's called "blanket receivership" and the South Florida Court of Appeals (Third District) ruled in favor of the strategy which allows a local community association to file for receivership once to go after multiple investors who rent out units but don't pay association fees.

Specifically, blanket receiverships are being used against investors who own one or more units or homes, rent them out, collect the cash from tenants but then fail to pay association fees and mortgages until they are forced into foreclosure by the association.

**The problem:** By freeloading upon their own associations, these deadbeat investors force the associations to pass on the financial burden to those owners who do pay their assessments – by asking them to pay even more in special assessments. Too often the burden transforms paying owners into delinquents or leads them into foreclosure, and the cycle continues, leaving in its wake associations struggling to remain financially afloat and cover water, garbage and electricity bills.

**What's new:** In May, this column noted that associations only had one real recourse – to file in court individual receivership re-

quests per owner, per unit; costing them thousands of dollars per case and loads of time. Credit the South Florida-based Association Law Group for determining that Florida statutes never intended to force associations to go after such deadbeat investors one at a time.



Ben Solomon, Esq.

"These statutes have been around for a long time, what's new is our interpretation of them," said Ben Solomon, an attorney with ALG.

ALG laid out a legal plan for "blanket receiverships" in which an association only has to pay court-related fees to file one jumbo case. That in turn could provide a court-appointed receiver the power to siphon rent money from one and all deadbeat investors in a particular complex, regardless

if they were delinquent before or after the court order, or owned one or 100 units.

Since the firm began filing for blanket receiverships several months ago, ALG has racked up about two-dozen association clients in Miami-Dade and Broward counties; and more cases are in the works.

**Court challenge:** One delinquent investor from the Villages at Dadeland Condominium Association in Miami recently fought back. The case involved the owner of more than 15 rented units who did not pay a single assessment in two years. His attorneys argued the association should have filed separate receivership cases. But the judge allowed the blanket order to stand.

"Now we have case law showing we are standing on solid ground with this strategy," Solomon said.

**Whom does this affect?** Only investors who own units that are rented out. These receivership programs do not involve owners who live in their units or homes who fell behind in payments due to a sudden illness or job loss.

Does this program harm associations or their financial operations? No. The association itself does not fall into "receivership," so its financial standing or creditworthiness is not diminished in any way. Nor does the association lose any control of its books.