

## Associations use new tactic to speed foreclosure process

### Fallen Patterson

With the average foreclosure in South Florida taking a minimum of 15 months to complete, financially struggling community associations are frantic for a quicker solution.

Association Law Group, based in Miami, is using an aggressive approach, called reverse foreclosure, to get lenders to take title, pay overdue assessment fees and sell the property.

When an association property is in foreclosure, no one pays the monthly maintenance fees. After the lender takes title to the condominium, according to Florida law, it only has to pay six months of overdue assessment fees or 1 percent of the original mortgage, whichever is less. For homeowners associations, its 12 months of fees or 1 percent, whichever is less.



Reverse foreclosure cuts off the two main stall tactics that ALG attorney Ben Solomon said lenders use to delay the process.



While either party has the opportunity to set the foreclosure hearing, most people want to keep their home. Solomon said lenders use that impulse to their advantage by either declining to set a hearing or continuously canceling and resetting the hearing in order to avoid taking title.

The first step in a reverse foreclosure is for the association's attorney to set the hearing. Once in court, the lender must explain to a judge why it no longer wants a property for which it began foreclosure proceedings.

"You're basically calling their bluff," Solomon said. "They have to admit they want the unit."

Once the judgment is set, the court establishes an auction sale date, which in this market can take three to six months. That's when lenders use their second stall tactic: They cancel the auction.

To counteract that stall, the association can waive its right to sale and right of redemption, allowing the owner to pay what is owed on the property up

until the moment of sale and keep the property.

"We want our money, not the unit," Solomon said. "All those extra months [of unpaid dues] are likely to cripple the association."

Finally, the association asks for the title certificate to be issued immediately, forcing the lender to quickly take possession of the property and begin paying the dues until it finds a buyer.

"I'm sure down the line, banks will come up with a counter-strategy, but right now we are in the driver's seat," Solomon said.

The reverse foreclosure process worked Jan. 12 for Keys Gate Community Association, a 3,000-home HOA in Homestead. Patrick Gleber, a director on the board, said it was a long time coming after a lender stalled the foreclosure process for more than two years on one property.

"If there was ever one for the little guy, this is it," Gleber said. "It's not just for Keys Gate but for everybody."