



Treasure Coast HOAs may use new legal procedure to wrangle delinquent assessments

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STUART — The gated town-home community of Whitemarsh Reserve in Stuart might look like any other subdivision on the Treasure Coast.

Its manicured lawns and pool area don't give the impression that the community's homeowner association is likely making local legal history on the Treasure Coast.

But Whitemarsh Reserve's Homeowners Association received approval from the Martin County courts in November to proceed with a court-ordered "blanket receivership." That allows the association, through a third party, to collect a homeowner's past-due HOA fees through their tenant's rent payments if the owner of the unit is under foreclosure from the association because of delinquent HOA dues.

The term "blanket receivership" describes a court order in which a third party collects the delinquent HOA fees of multiple owners in one subdivision through the monthly rent payments of tenants renting from delinquent homeowners. In past, the courts required HOA associations to file court motions for each delinquent owner, one unit at a time.

The third-party receiver collects the dues of delinquent unit owners who are being foreclosed on by the association — but continue to rent out their units despite non-payment of their HOA fees.

The Miami-based Association Law Group is representing Whitemarsh's HOA association in the blanket receivership.

Michael Furshman, an attorney with the firm, said Whitemarsh's strategy of filing a blanket receivership is likely the first on the Treasure Coast, but many more local associations may soon follow suit.

"During the pending foreclosure by the association, (the blanket receivership) entitles the association to collect rents and extrapolate the assessments for all delinquent units instead of doing that on a case by case basis for each unit," said Furshman. "The blanket receivership covers all the units within one association, not just one unit."

The Association Law Group challenged the one-at-a-time rule and successfully convinced Miami-Dade County courts to approve the first blanket receivership case there last year.

Furshman said prior to filing the blanket receivership, 11 percent of the estimated 180 homes at Whitemarsh Reserve were delinquent in paying their assessments. That has improved significantly since the blanket receivership took effect, he said.

Executives at MMI of the Palm Beaches Inc., a company that manages homeowner associations in South Florida including Whitemarsh Reserve, referred all questions about Whitemarsh Reserve's association to the Association Law Group.

Furshman said he expects to be filing more blanket receiverships in Martin, St. Lucie and Indian River counties. The firm is currently handling 35 cases across the state, mainly in South Florida.

"In one case, we were able to bring a unit into compliance because just one month's rent covered the 10 months of assessments," Furshman said. "The order provides notice to the tenant, as well as the owner, that a court appointed receiver has been appointed to recover rents because of failure to pay the assessments."

Furshman said if a tenant or unit owner continues to violate the order, they are forced to stand before a judge to show cause for violating a court order.

Just last month, the firm obtained a court order from a Broward County judge to bring a delinquent homeowner to court to explain why he has not handed over tenant rent payments to cover for his late HOA dues.

The homeowner never showed up because he was already in jail on unrelated charges.