

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

IN RE:
THE OAKS AT MIAMI GARDENS
CONDOMINIUM ASSOCIATION, INC.,
A Florida not for profit corporation,

Petitioner.

_____ /

THE ORIGINAL FILED
ON MAR 23 2009
IN THE OFFICE OF
CIRCUIT COURT DADE CO. FL
CIVIL DIVISION
CASE NO: 9-22942 CA 2 4

EMERGENCY PETITION FOR APPOINTMENT OF RECEIVER

COMES NOW the Petitioner, The Oaks at Miami Gardens Condominium Association, Inc., (the "**Association**") by and through its undersigned counsel and petitions this Court for the appointment of a receiver pursuant to Florida Statutes, Section 718.116(6)(c) and in support therefore would state the following:

1. The Association is a Florida not-for-profit corporation existing and organized under the laws of the State of Florida.
2. The Association is the condominium association responsible for the operation, maintenance and control of The Oaks at Miami Gardens Condominium, (the "**Condominium**") pursuant to Florida Statutes, Section 718, *et. seq.*, and that certain Declaration of Condominium for the Condominium recorded in Official Records Book 24263, at Page 2379, of the Public Records of Miami-Dade County, Florida (the "**Declaration**").
3. The Association's control and operation of the Condominium has been severely jeopardized by the non-payment of Assessments (as defined in the Declaration) which are due the Association from unit owners within the Condominium pursuant to Florida Statute Section § 718.116. The Association its operating expenses and in particular is unable to pay its Miami-

Dade County water bill. The Association has been notified that the water for all units within the Condominium will be turned off on or about March 23, 2009 due to non-payment.

4. Multiple unit owners who are in foreclosure by the Association for non payment of Assessments are leasing their respective units and collecting rents. Those same unit owners have refused and/or failed to pay Assessments due the Association for their respective unit after notice of delinquency, the filing of a claim of lien, and the filing of an action to foreclose the Association's claim of lien.

5. The Association needs a Court appointed Receiver to collect rents due unit owners within the Condominium from tenant(s) ("**Foreclosure Tenants**"), who are occupying a unit within the Condominium under a rental or lease agreement and which unit and unit owner(s) are the subject matter of a current lawsuit filed by the Association to foreclose its statutory lien for assessments pursuant to Florida Statute, Section 718.116.

6. The unit owners of units occupied by a Foreclosure Tenant that are or will be the subject of a foreclosure action by the Association for non payment of Assessments have consistently and historically failed or refused to pay Assessments due to the Petitioner during the foreclosure action while at the same time collecting rents upon said units.

7. The Association has no other adequate remedy available.

8. Pursuant to Florida Statutes, Section 718.116(6)(c), the Petitioner is entitled to have a receiver appointed to collect rents from Foreclosure Tenants that are due to a unit owner pursuant to a lease between such unit owner and the respective Foreclosure Tenant when the unit owner is in foreclosure for non payment of Assessments.

9. There are currently sixty (60) units within the Condominium and approximately seventy two percent (72 %) of those units, as of the date of this Petition, are delinquent in the

payment of Assessments. Those delinquencies create a severe economic burden and hardship on the Association and those members who are not delinquent.

10. Based on the current economic situation within the Condominium, the Association has reasonable cause to believe that additional unit owners within the Condominium with Foreclosure Tenants will become the subject of separate foreclosure actions by the Association for non-payment of Assessments.

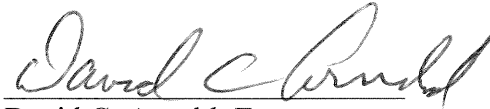
11. For the purposes of judicial efficiency, and in order to effectuate the collection of necessary funds for the operation and maintenance of the Condominium, the appointment of a single receiver to collect rents from Foreclosure Tenants during the period said occupied unit is the subject matter of a foreclosure, would fulfill the purposes of Florida Statutes, Section 718.116(6)(c). The appointment of a single receiver would also relieve the Court from making multiple appointments of receivers within the same Condominium. The appointment of a receiver on a case by case basis is not economically feasible, would burden this Court, and would frustrate the purpose of Florida Statutes, Section 718.116(6)(c).

12. Seth Heller is a duly qualified and bonded receiver. If appointed, the receiver should be required to file a quarterly report on each unit within the Condominium subject to a foreclosure action by the Association upon which rents are collected and disbursed with a final report on each unit to be filed upon the final disposition of the underlying foreclosure action.

WHEREFORE, Association prays this honorable Court to appoint Seth Heller as the receiver to collect those rents due to unit owners within the Condominium from their Foreclosure Tenants during the period the rented/leased unit is the subject matter of an action by the Association to foreclose its lien for condominium assessments, and to grant such other and further relief as this court may deem just and equitable.

Respectfully submitted this ___ day of March 2009.

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A handwritten signature in cursive script, appearing to read "David C. Arnold".

David C. Arnold, Esq.
Attorney for Association
Fla. Bar No. 0141080