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Delinquent dues landing more homeowners in court

Struggling homeowners associations are having to play hardball to maintain their finances

by Sebastian Montes | Staff Writer

Wednesdays have unofficially become “HOA day” at Montgomery County District Court, the day each week that homeowners associations are scheduled in number for proceedings aimed at collecting unpaid dues from their members.

Delinquency cases are being heard in unprecedented numbers, said attorney Thomas Schild of Rockville-based Thomas Schild Law Group LLC, which represents more than 100 homeowners and condominium associations, mostly in Montgomery County. The number of delinquency cases among his firm’s clients has doubled this year and will likely double again next year, he said.

In Montgomery Village, where there are 10,000 homes and the county’s largest concentration of HOAs, delinquencies are up 75 percent, to 8.7 percent of owners. On one Wednesday last month, the Montgomery Village Foundation, the umbrella group that represents Village residents, had 42 cases heard in District Court, according to foundation documents.

The foundation, like scores of other homeowners groups in the county, needs the money it is owed to pay for neighborhood maintenance, such as common area repairs and mowing. Some, like Grand Bel Manor Condominiums in Silver Spring, have had to resort to emergency assessments for quick injections of cash, according to Alec Lichten, president of the community’s condominium association.

Delinquencies this year among the 206 owners at Grand Bel Manor, a 40-year-old community, have jumped 5 percentage points to more than 20 percent of owners, Lichten said. The increase came in the wake of the cost of four water main breaks and a sewer repair project last year.

To make it through the fiscal year that ended in June, the community's board of directors imposed an emergency assessment early this year that for most owners came to \$800 or more.

“For the life of me — I’ve been here 30 years — I don’t remember another special assessment,” Lichten said.

The community also increased its dues by 17 percent for the new fiscal year, boosting the fee for a two-bedroom condo to \$450 a month.

To keep atop of its finances, Grand Bel Manor now automatically places a lien on a condo if the owner falls two months behind in dues. So while the community has had only three foreclosures, the condo association has filed more than 30 liens, Lichten said.

“It’s about the only direction we can go in if someone is delinquent,” he said.

But increasingly, owners have already expended all of equity in their homes, leaving none to pay other debts, said Schild, who represents the Grand Bel Manor Condominium Association.

The more practical solution for associations, and homeowners, is to negotiate payment plans before resorting to court, Schild said. Homeowners often don’t realize they may also be responsible for legal costs and court fees.

“A \$3,000 debt can easily turn into a \$4,000 or \$5,000 debt by the time you put the lien on,” he said.

The Montgomery Village Foundation, for example, has been collecting more than \$40,000 per month in court fees and accrued interest, according to foundation records.

To pare down the group’s \$7 million-plus operating budget, Executive Vice President David B. Humpton met with department heads last week to brainstorm cost-cutting measures. New hires already have been delayed or eliminated and seasonal staff has been dramatically reduced, Humpton said.

The effort is a precursor to the much-anticipated look at whether to raise the foundation's assessment fees, which because of a previously imposed cap would require a special community-wide vote.

"I'm going to do my darndest to keep it at a minimum, if at all," Humpton said.

Attorney Schild doesn't see quick relief for HOAs.

"Right now, I don't see an end to it for at least another year and a half," he said. "What's probably going to happen is that associations will start running out of money in October. You can only go into your reserves for so long."

In the meantime, associations will continue to juggle priorities.

The South Village Homes Corp. in Montgomery Village has already delayed parking lot repairs for the last two years and there are "some major green space renovations that we're holding off on," said Mark Firley, the community's board president.

"What we worry about now is if the market continues to go sour ... we'll have to go back and adjust our spending plans. The alternative is to further burden the homeowners," he said.

The dilemma is a kind of Catch-22, Schild said.

As more homeowners become delinquent, community dues have to be increased to make up the difference, which in turn makes the fees all the more unaffordable for an even larger number of residents.

"You're going to have people who say 'I would have paid \$300. But I can't pay \$500, so I won't pay anything,'" he said.