

REAL ESTATE

Condos squeeze deadbeat residents

It's a mad, mad world in condo land, where those who pay their maintenance fees and those who don't live cheek to jowl, harboring bitter resentment.

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Rosa Mendoza's upstairs neighbor quit making his condo association payments almost a year ago. He bought another home and let his unit slide into foreclosure.

What irks Mendoza — no, infuriates her — is that, as the foreclosure process drags on, the neighbor continues using the Miami Beach condo as a weekend getaway, even keeping his sailboat tied to the dock.

"What I would love to do is untie that boat of his and let it float away," Mendoza said. "I would never do it, but I fantasize about it."

Well into the second year of South Florida's foreclosure crisis, deadbeat condo owners are taking a heavy toll on associations like Mendoza's. Owners in or facing foreclosure often stop paying their condo fees that are needed to pay for essential utilities and services. That leaves other residents on the hook to pay the

*TURN TO CONDOS, 2A

REAL ESTATE

Residents held hostage by next-door deadbeats

CONDOS, FROM 1A

difference.

Some can't cover the shortfall. As a result, the water has been shut off. And the lights. Trash is piling up and lawns are ragged. Many are going without property insurance in the depths of hurricane season.

In condos, those who pay their bills and those who don't live cheek to jowl, fraying nerves throughout the building.

Some condo owners are acting out. It's getting ugly.

The frustration is fed by a legal system that affords considerable protections to delinquent owners — too many protections, in the eyes of some of those who are current with their payments.

And so, some associations are mulling out their own punishment. Public humiliation is in vogue. At least two condominiums — The Collins in Miami Beach and Island Place in North Bay Village — and probably far more, post lists bearing the names of owners who are behind on fees.

"I don't see it as a bad practice, myself," said Jenny Huertas, a resident of The Collins who hopes it will keep her assessments from going up. "I guess it's a way to embarrass them and get their attention that they need to take action."

After appealing to non-payers' sense of fairness

failed, Eduard Sotolongo, a board member at Island Shores condo, said he started aggressively calling the towing service to haul away their cars when parked in guest spots or other unauthorized spaces. About 16 of 81 units are in foreclosure at the North Miami Beach condo.

Towing the car of one offending resident, however, resulted in a threat on his life, Sotolongo said. "You feel like buying a shotgun because it feels like the Wild West."

Bill Raphan, the state's assistant condo ombudsman in Fort Lauderdale, said the situation in some condos is, indeed, getting dangerous. "The frustration people have, it leads to terrible animosity."

"Associations are asking about trying everything — limiting their access to the clubhouse, pool, cutting the water off, cable off. We've heard all of this stuff. But in condo law, you can't do that ... as long as they own their unit."

That said, it certainly doesn't stop people from trying.

GrandView Palace, a 500-unit building in North Bay Village, in February found a way to turn up the heat on nonpaying landlords by installing a new electronic key system. Tenants of these key systems were denied fobs and were technically locked out of the premises. Renters like Yvonne Eyking, who occu-



TICKED OFF: Rosa Mendoza vents her frustrations over broken pavers and overgrown grass, among other things. She lives in a six-unit condo complex on Normandy Isle where two owners have stopped paying maintenance fees.

pies a unit in arrears, have resorted to "piggy-backing" with other residents to get into the parking lots, buildings and pool area.

It's inconvenient, admits Eyking, a real-estate agent. But she said she understands — even supports — the hard-line policy because it gets tenants to hassle their landlords to settle up with the association.

"You are using the facility, and you are victimizing your neighbors. Anybody can pay \$500 a month [in fees]," said Eyking, who is moving out next month to buy her own place.

Some owners, out of a sense of duty, have kept paying the fees despite abandoning their mortgage payments. Justin Miller is one of them.

"I don't deserve to live for free, but that's just me. If I don't pay my fees, then someone has to pick them up for me," Miller said.

Others, however, have no qualms about stiffing the condo association.

At the Island Shores condo in North Miami Beach, the security system malfunction not long ago, presenting the association with an opportunity to put the squeeze on delinquent residents. Or so they thought.

"We fixed some, but some [others] we did not because they owed us money," said Jenny Ledesma, the association's president. "We thought it might get some of them to come to the office."

Alas, all of the key fobs were reactivated after board members learned from their attorney that limiting building access is illegal.

Rolando Tato, president of the Lancaster in Hialeah, where 44 of 96 units are in foreclosure, decided to shut down the pool — for everyone. At first, he said, it was to save money. Then he con-



CARRYING DEADBEATS' LOAD: Eduard Sotolongo lives at Island Shores in North Miami Beach, where 20 percent of unit owners have stopped paying maintenance fees.

ferred the real reason: "I don't want the people who don't pay the bills to have that enjoyment."

The reprisals underscore a more serious sense of injustice, fear and powerlessness on the part of homeowners struggling to pull their buildings from the jaws of the condo death spiral.

When unit owners fall behind, other owners are assessed higher payments, putting them under increased financial pressure. Some of them, in turn, may be unable to bear the higher costs, leading to still more delinquencies and foreclosures.

Banks recognize the risks of a financial meltdown. Most refuse to finance condo purchases in complexes where more than 15 percent of the unit owners are behind. Borrowers can even be denied loan modifications if a building suffers from high delinquencies.

The irony is that those same banks may be contributing to the problem. Associations and their lawyers claim banks deliberately stall the foreclosure process — to

avoid taking ownership and having to shoulder the fees. As a consequence, nonpayers are allowed to remain in the property for months and sometimes years for free.

But even when lenders foreclose, the problems don't end. Most wait until they sell a unit to settle up maintenance accounts. That's also when they typically pay their share of the prior owner's delinquencies. Florida law says they owe the association the lesser of six months of payments or 1 percent of the original mortgage note.

Also working against associations are popular foreclosure defense strategies that allow borrowers, with an attorney's help, to postpone proceedings indefinitely. Loan modifications can also take time.

"Unit 204 has been in foreclosure for two and half years," said Ledesma, the association president at Island Shores. "It's totally unfair. I don't think anybody is looking out for us."

The law is of minimal help, associations say, even though it gives them the

power to place a lien and foreclose on nonpaying units. That's because lenders, as primary lien holders, get first dibs on the proceeds from a foreclosure sale. There is usually nothing left for the association.

Robert Kaye, a Fort Lauderdale-based condo association attorney, said that besides a foreclosure action, there is little else associations can or should try to do.

He even advises against posting the names of delinquent owners, saying that can lead to defamation suits.

That angers Sotolongo of Island Shores: "We can't do it because it violates their human rights. What about my human rights? Why doesn't FPL care about human rights? They will cut off my electricity because somebody else doesn't pay."

Meanwhile, Sotolongo and others do what they can to prevent the worst from occurring — losing their hard-earned homes because someone else won't pay their fair share. The threat is real.

For residents of the Mirasou Condo in Northwest Miami-Dade, where 124 of 310 units are in foreclosure, financial problems reached a crisis in April, when the county water and sewer department cut off water to the complex because it owed more than \$100,000.

"People were screaming. Children were crying. It was pandemonium. People were yelling, 'We want water! We want water!'" said Katherine Rivera, who bought a unit there last year.

She had no idea the condo association was so far behind. The water was restored after the association scraped together several thousand dollars and agreed to a final repayment plan. If they fall behind again, that's it, Rivera said.

"If they shut down the water, within 72 hours we could be out on the street," Rivera said. "People that live here have had to work their entire lives to save for a home to call their own. If at any point we are considered uninhabitable, those people are left in the street."

For nonpaying condo owners like Rudy Martin, the guilt can be pretty intense. Martin, who quit paying the fees on his Deerfield Beach condo more than a year ago, avoids his neighbors or endures "chilly stares."

He had hoped loan modification would take care of his financial problems, and he felt compelled to explain himself when he ran into neighbors: "I felt like I had to talk to them and justify it, so they didn't think I was scumbagging them."

The loan modification didn't come through, though, and he finally moved out of the 36-unit condo last week.