

The Imperial Way

November 2010, Volume 3, Issue 10



In our on-going effort to keep the owners and tenants of Imperial Plaza up-to-date, we will be featuring articles about the collection process of delinquent maintenance fees. This first article speaks to the basic process and options when we seek payment on an overdue account.

COLLECTIONS Part 1:

What the AOA Can Do to Collect From Delinquent Owners

by Melanie Oyama of Motooka, Yamamoto and Revere

No two collection cases are the same. Some owners get behind on their payments and simply need a little extra time to catch up; others get in a hopeless situation in which a speedy foreclosure action is in everyone's best interests. With that in mind, this article is a summary of the various steps a collection case can go through. In many situations, some of these steps can and should be omitted to save money and/or reduce time.

Demand from Managing Agent

Once an account becomes 30-days delinquent, a good common practice is to have the managing agent immediately send a demand letter informing the owner of the amount of the delinquency. The letter should notify the owner that all unpaid amounts assessed by the association for common expenses constitute a lien on the apartment, and if payment in full is not received within 30 days, the matter will be turned over to the Association's attorney for foreclosure.

Decision Time for the Board of Directors - How to Proceed

If the owner does not pay in full or enter into an acceptable payment plan in response to the demand letter, the Board of Directors must decide how it wishes to proceed:

1) Attorney Demand Letter.

The Board could ask its attorney to send a demand letter to the owner. This is the most common method of proceeding. The owner is given the required 30 day notice and a deadline by which to pay all delinquent amounts, including the legal fees charged for the demand letter and warned that if these fees are not paid as demanded, a lien will be filed against the property, and the Board could decide to foreclose upon the lien.

2) Place a Lien on the Property. *Continued over...*

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Secretary

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...collections continued The Board could ask an attorney to place a lien on the owner's apartment which is recorded with both the Land Court and the Bureau of Conveyances. Following the recordation of the lien, typically a final demand letter is sent to the owner together with a copy of the lien. The demand letter advises the owner that the total delinquency must be paid within the deadline specified by the Board or the Association will proceed with a foreclosure action on the lien. The letter is sent to the owner by certified mail, return receipt requested and regular mail.

3) Demand Rent from Tenant.

If an Association has adopted a rent collection policy as authorized by statute and the unit is rented, the Association can make written demand on the tenant to turn over his/her rent to pay down the amounts owed by the apartment owner for unpaid maintenance fees. This can be done after demand for payment has been made on the owner and even before a title report and lien are prepared.

4) Terminate Owner-Occupant's Utilities/Access to Common Elements.

If an Association has adopted a policy authorizing the termination of an owner occupant's utilities and/or prohibiting access to common elements such as recreational or parking facilities, written notice can be given to both the owner occupant and his/her lender of the Association's intention to do so.

5) Foreclose on the Lien.

It's possible to proceed directly to foreclosure without any prior notice from legal counsel, provided the Managing Agent has previously sent the owner a letter giving notice that the Association intends to foreclose on the apartment if payment in full is not received within 30 days. Moving directly to foreclosure is a reasonable option if an owner has abandoned the property or has otherwise made it clear to the Board that he or she has no intention of bringing the account current..

Legal Action

In most, but certainly not all cases, the most effective method of debt collection is to increase the pressure to pay incrementally. That is, the initial demand should come from the Managing Agent, after which, if satisfactory arrangements are not made, a letter should be sent by the attorneys. If payment is still not received, a lien should be placed on the property and a copy sent to the owner along with a second demand for payment.

Finally, if payment in full is not received after the lien is placed on the property, the Association should either file an action in Circuit Court to foreclose its lien or pursue a District Court action for a personal judgment.

NON-JUDICIAL FORECLOSURE

In a non-judicial foreclosure action, the proceeding occurs with no court involvement. While the non-judicial proceeding takes less time than a judicial foreclosure and costs less, strict notice requirements must be met. But judicial action remains the preferred foreclosure method. The cost to pursue a non-judicial action ranges from \$2,000.00 to \$3,000.00.

This article will continue in next months newsletter addressing the issue of foreclosures and District Court Actions.

It's beginning to look a lot like...

The Board of Directors is looking for a few festive elves willing to donate a few hours of their time to help decorate the Galerie, Tower and Townhouse lobbies. If you're interested in spreading holiday joy, stop by the manager's office to obtain more information. Decorations will be displayed right after Thanks giving to early 2011. Happy holidays!



T.I.P. Tips (Parking)

The customer parking stalls are for visitors to the Imperial Plaza commercial apartments only. The individual must be doing business at the apartment the entire time the vehicle is parked. If a person leaves property after parking their car in a customer stall, the vehicle will be towed immediately

Employees, residents or their guests found parking in the customer stalls will be towed immediately

The Customer Parking garage is open between 7AM and 11 PM. Unauthorized vehicles parked in the stalls after hours will be towed immediately

Residential Guest stalls are reserved for guests visiting an apartment and must remain on property for the length of time the vehicle is parked. If a guest leaves property and their car is parking in a stall, it will be towed immediately

Residential Guest Parking is available form 6AM to 2 AM. Unauthorized vehicles parked in the stalls after hours will be towed immediately

