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## Dealing with the Realities of the Recession

Stephen Lasser · Wednesday, June 24th, 2009

Something to consider, however, is that a foreclosure lawsuit can take a long time. “When a condominium unit owner falls behind on his or her end loan, the lender must commence a foreclosure lawsuit in state Supreme Court,” says Stephen M. Lasser, a partner with the law firm of Stark & Stark in New York. “A foreclosure lawsuit can take several years to complete. When a condominium unit is finally sold at a foreclosure sale, the proceeds are first applied to the amounts owed to the lender, then to the amounts owed to the condominium—assuming the condominium recorded a lien against the unit and there is money left.”

The bank will typically give a board or an association up to six months of delinquent assessments, but in some cases, you can make a deal with the owner. “Boards have fiduciary duties that all owners pay their pro-rata share of maintenance or common charges,” says Lasser. And they can also help a struggling resident by setting up a repayment agreement, he says. The board also can offer to waive some late fees or interest on unpaid amounts at the end of the repayment term if all payments under the agreement are paid on time.

Lasser recommends that boards act quickly when condo owners fall into arrears and encourage them to utilize the small claims part of the city or town court if the amount owed is less than the court’s jurisdictional threshold, which is typically \$5,000.

“Once a lender commences its own foreclosure action against a condo owner, it rarely makes sense for a condo association to start or continue its own foreclosure action because the bank’s loan that is being foreclosed will typically have priority over the condo’s foreclosure action,” he says.

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