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The 5-Step Strategy One HOA Used to Refill Its Coffers

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This week 's tip is culled from the true story of Lancaster Condominium Association in Hialeah, Fla. The association went from having more than half of its 90 units in foreclosure—with an even greater number delinquent in assessments to the association—to financial solvency by pursuing an aggressive legal strategy against delinquent owners.

Step 1: File Liens and Foreclose

Until a year ago, more than half of the 90 units at Lancaster Condominium were in foreclosure, and even more were delinquent in association assessments. Lancaster faced a big problem. Banks weren't in any hurry to take title to their foreclosed units, which meant that condo owners weren't paying assessments and neither were banks.

Under Florida law, condos can file liens against owners who are severely behind on their maintenance fees and then foreclose to satisfy the liens. Lancaster foreclosed on about 10 units whose owners were each $5,000–$10,000 behind in assessments. The association did so to rent those units to recoup delinquent amounts until the lenders completed their foreclosure process.

The move wasn't without risk. First, the banks could restart their foreclosure proceedings at any point, so Lancaster might not hold title to the properties long enough to recoup its delinquencies. In addition, Lancaster would arguably lose the right to require lenders to pay, per Florida law, 12 months of delinquent assessments or 1 percent of the total outstanding mortgage amount, whichever is lower. "I don't know if it's been officially determined yet by Florida courts, but an association could lose its right to even collect that from the lender if the association takes intervening title," explains **Andrew Lewis** of **Eisinger, Brown, Lewis, Frankel & Chaiet PA** in Hollywood, Fla., who specializes in representing community associations.

Another risk? Lancaster wouldn't be able to rent the units. "Landlords have to disclose in their lease the possibility that there's a mortgagee that has superior rights to the unit and that eventually that mortgagee could take over," explains Lewis. "So it's not always easy to get tenants to rent if there's a possibility they could be forced to move out soon."

Lancaster, however, was lucky. By offering the units at 75–85 percent of their market value, it was able to rent all 10 units within 30 days of getting possession. "That's not going to be the case everywhere," says Lewis. "You have to be in the right rental market, have a marketing strategy, set your rent at a reasonable level, and have the staffing to become a landlord. Not every association is set up to do that."

To find out the other four steps Lancaster pursued, see our new article, HOA Turnaround Case Study: Lancaster Condos.