



PLANTATION FORUM

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CONFERENCES CAN HELP THAW 'FROZEN' FORCLOSURES

As many condo or community associations remain stuck in lengthy battles with lenders over foreclosed properties, condo experts say there are options to speed the process through the courts.

The No.1 tool for associations to use when dealing with a stalled foreclosure is to call for a case management conference to discuss claims between the lenders, associations and judges and set time tables for affidavits and hearings that will permit the case to move along, said Kevin Miller, a lawyer with the firm Becker & Poliakoff, P.A., which represents community associations around Florida.

"What associations are starting to understand now is that if they can bring an end to a case in eight months rather than 18, that is 10 months of assessments they can receive," Miller said.

The environment in which foreclosures are handled among associations is beginning to change, as associations can no longer afford to sit back and lose out on maintenance fees they are owed by delinquent owners. A wait-and-see approach was the norm for many associations, resulting in significant monetary losses, Miller added.

"If the association just sits back and tries to wait it out to see what happens, they're going to have to wait a very long time," he said.

Asking for case management conferences to get an idea of where the case stands and set deadlines for hearings is becoming a more common practice as a result of the proposed "foreclosure sale freeze" used by lenders, said **Jed Frankel**, a partner at **Eisinger, Brown, Lewis, Frankel, Chalet & Krut, P.A.**, a law firm that represents community associations.

"Whatever we can do to push the process along and get a new unit owner in there sooner rather than later, it's going to be good for the association," Frankel said. "We're trying to move these cases through the system as quickly as possible."

Another tactic associations could use to help speed the foreclosure process, Frankel said, is to set a case for trial. That effectively sets an outside date for when the case should be concluded.

"The association, just like everyone else during a case, can ask to be moved along and moved along [in a] timely [manner]," he said.

While lenders can ask for "freezes" on the foreclosures, it is ultimately up to the judge to decide how and when the case will move forward. And by taking action, associations can receive resolutions more quickly.

"Either the bank goes through with it and they file judgment of foreclosure, which could ultimately end up in a sale of the property, or the bank could voluntarily dismiss the case," Frankel said.

"Now, the association knows where it stands so it doesn't have to wait another two years to see what happens."