



HOA Turnaround Case Study: Lancaster Condos

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[Last month](#), we revealed how the Venetia Country Club in Largo, Fla., went from more than \$350,000 in delinquencies—and near-collapse—to having reserves in the bank in just nine months by signing on with [LM Funding](#), a company that provides non-recourse capital in exchange for the right to keep interest and late fees on delinquent amounts it recovered. ([See article.](#))

This month, we focus on how another association righted its listing ship by pursuing legal remedies against delinquent owners. Lancaster Condominium Association in Hialeah, Fla., 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 using aggressive legal and management strategies.

Here we get details from the association's attorneys, [Dennis Eisinger](#) and [Andrew Lewis](#) of [Eisinger, Brown, Lewis, Frankel & Chalet PA](#) in Hollywood, Fla., both of whom specialize in representing community associations.

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 Lewis.

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 who 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."

Step 2: Collect from Tenants

Lancaster also went after owners through their tenants. Under a provision of Florida law adopted in July 2010, associations can require tenants to bypass the owner and pay rent directly to the association. Lancaster sent strong rental demand letters to the tenants of delinquent owners' units. "Based on our experience in South Florida," says Eisinger, "the success rate in procuring rental monies from tenants of delinquent owners for all community associations has been remarkably high."

Step 3: Cut Off Delinquent Owners

Florida law also permits associations to suspend use of common areas and facilities to owners and their occupants who are more than 90 days delinquent in the payment of any monetary obligation to the association, according to Eisinger. That's what Lancaster did. Because the pool is fenced and accessible only with a key, Lancaster successfully prohibited owners from using the pool area, which prompted some to pony up their overdue fees.

Step 4: Get a Deed in Lieu

With another owner, Lancaster was able to avoid the time and expense of lien foreclosure—and save the corresponding legal fees—by getting an owner to sign a quit claim deed to the association.

"It's always possible to do that," says Lewis. "We've attempted that on other occasions and been successful one or two other times. But you need an accessible and amenable unit owner. Unit owners might not be so agreeable if they can collect rent while not paying their [assessments](#) and mortgage. It's not easy to convince an owner renting his unit to do the right thing."

"Also, with a lot of units owned by investors, you don't have owners to approach," adds Lewis. "They often don't defend themselves in the foreclosure case, and you don't know how to reach them. If owners are living on the premises, there's more of an opportunity to approach them and get them to agree to sign a quit claim deed. But it's not something I'd count on as a primary strategy."

Step 5: Get Lucky

Lancaster also caught a break. It benefited when a third-party purchaser outbid the bank at a foreclosure sale. Under Florida law, in that situation, the new owner must pay all delinquent maintenance assessments, including attorney's fees, costs, and late charges. Lancaster collected all those fees.