

orlandosentinel.com/news/local/os-homeowners-fees-rising-0124,0,5087958.story

OrlandoSentinel.com

Foreclosed homes leave remaining owners to pick up the tab

Homeowners dues skyrocket in mostly vacant neighborhoods

By Rich McKay, Orlando Sentinel

12:26 AM EST, January 24, 2010

Tom Beard knew that he would be paying homeowners association dues when his family moved into a new Tivoli Village town house in east Orlando.

But he never thought he would be footing the dues owed on dozens of empty homes, most in the process of foreclosure.

"Our dues have spiked up by 15 percent," said Beard, 43, a Winter Park High School teacher. "The reason is that so many of the other homes are in arrears, those of us who are left have to carry the burden for the whole. It's not right, and it's not fair."

Beard, and thousands of other Floridians like him, is suffering from an unexpected consequence of the housing bubble that burst.

"It's a lot like getting stuck with the bar tab of a roomful of people you never met," said Gary Poliakoff, a South Florida attorney and author who specializes in community-association law.

"Most people don't understand that if they buy a home or condominium in an association, they're not just buying their home. They're signing a contract that says they'll be responsible for the upkeep of all the common property. It's one of the biggest problems facing homeowners today — they're being saddled with other people's debts."

Poliakoff said the problem affects tens of thousands of unit or home owners across the state where more than 5 million Floridians live in some form of housing under an association's control.

In Beard's case, Tivoli Village has about 185 town homes, and association dues pay for maintaining private roads, a pool, security gates and insurance for common areas. But Beard said their costs are going up because the neighborhood is only about 50 percent owned. The rest of the town homes are vacant or for sale.

Beard's Tivoli Village dues have gone up \$375, from \$2,500 a year in 2009 to \$2,875 for 2010 to cover the shortfall. And the dues could go higher still, if more houses go into default.



At Vistage, CEOs gain fresh thinking and actionable knowledge through:

- ▶ Peer Group Meetings
- ▶ One-to-One Coaching
- ▶ Global Network of 14,500 CEOs

Join. Connect. Thrive. »

VISTAGE
better leaders • stronger teams

Kyle Sanders, a vice president of Orlando-based Hanover Capital Partners LLC, the developer and president of the Tivoli Village Homeowners Association, didn't return calls seeking comment. But documents from a recent HOA meeting show that the association has a \$170,000 budget shortfall because of vacant homes or owners who have stopped paying their fees.

Sentry Management Co. in Longwood oversees more than 600 home and condo associations across Central Florida, including Tivoli Village. President Jim Hart said that rising HOA fees are directly linked to the housing market.

"Everything we do is driven by a budget that the association agreed to," he said about the problem. "If there are a lot of homes in foreclosure, then unfortunately those costs are spread out among fewer people. Fees are going up because other people aren't paying their share."

Hart said the company is hearing from residents in several states and across Florida, "and they're not happy," he said. "I've been in this business for 36 years, and I've never seen anything like this."

Other neighborhoods under association covenants, such as the dozen neighborhoods in the west Orlando MetroWest Masters Association, have seen their dues skyrocket as well. Some MetroWest residents are suing the association to take control of the board, but the lawsuit is pending.

Beard said that he and his neighbors are considering their legal options and circulating petitions to ask the developers to cap the fee increases.

Poliakoff said he thinks banks that take homes through foreclosures should pay the association dues for each property.

"But that's not the way banks operate," he said. "They'll get a judgment [for the property] but they don't take possession of it or assume its ongoing debts."

"You can't underestimate how big of a problem this is," he said.

Community associations aren't necessarily a bad thing, said University of Central Florida economics professor Sean Snaith.

"The advantage of an association is that while one homeowner might not be able to afford a swimming pool or clubhouse, if you join 200 or 400 homeowners, collectively they can afford those amenities," he said. If the bills become too much for homeowners, and developers don't modify their agreements with them, Snaith expects to see the disagreements end up in court.

"I can say, no one expected what's happened in the last few years with this housing market," he said.

Poliakoff said he would like state or federal lawmakers to force banks to pay for the association dues owed by the foreclosed homes.

The 3rd District Court of Appeals in Miami-Dade County, however, has rejected the notion that a lender should be required to pay association fees while a foreclosure case is pending. Poliakoff said those cases can take 12 to 18 months to wind through courts, and meanwhile, no one is paying the fees.

Rich McKay can be reached at rmckay@orlandosentinel.com or 407-420-5470.