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### Stoneybrook HOAs want buyers to pay back dues on foreclosed homes

#### Real-estate agents say practice makes homes harder to sell

By Victor Manuel Ramos, Orlando Sentinel

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Homeowners associations have been struggling to make up for thousands in dues lost when homes sit empty for months, waiting for foreclosure.

Two Orange County golf-course communities have decided to make their new neighbors foot that bill.

Buyers in Stoneybrook West in Winter Garden and Stoneybrook East in east Orange County have to add \$4,000 to closing costs, mostly for dues that went unpaid by previous owners while the house was in foreclosure for more than a year.

The so-called "resale capital contribution" doesn't sit well with real-estate agents and bankers, some residents and a group that advocates for homeowners' rights against HOAs. Usually, buyers in those communities would pay \$1,000 to move in, but the fees increased as the housing crisis deepened.

"It's ridiculous, and we are trying to get it changed," said Kristy Matthews, a Realtor and a homeowner at Stoneybrook West who has taken her complaints to the association's board. "It scares away prospective buyers and it lowers property values.... When some people are buying their first home, it's especially difficult for them to come up with that kind of money."

But a representative for the Stoneybrook East community association says the fees protect responsible homeowners from having to pay increasingly higher costs to keep things running. Even in lean times, someone has to pay for the water bill on lush golf courses.

"Our association was being restricted in cash flow resulting from foreclosures languishing in court for excessive periods of time," said John Santaniello, president of the Stoneybrook Master Association of Orlando at Stoneybrook East.

The two communities made news earlier this year for their unorthodox enforcement measures against homeowners behind on their dues. Delinquent residents are prohibited from entering through automated gates, had their cable and Internet services suspended and their guests — including pizza deliverers — blocked from entering.



Those collection tactics are guided by Jim Gustino, an Orlando attorney who represents both communities. Gustino said the Stoneybrook boards have had to take drastic measures because they are owed hundreds of thousands of dollars in association fees.

He said the high "resale" fees were imposed to encourage banks to foreclose sooner or face the difficulty of selling with the additional charge tacked on.

"Lenders were dragging their feet on these foreclosures, so the community found itself with many homes stuck in neutral," Gustino said.

Adding to the problem are financially strapped homeowners who decide to stop paying their association dues, which can add up to about \$1,600 a year.

"We have some homeowners who have been thumbing their noses for years at the association, and they are driving around the community in their Mercedes," Gustino said. "After giving them a reasonable chance [to pay], we will take action."

But critics say the \$4,000 fee is not fair to buyers, and some think the additional cost keeps houses vacant longer than needed.

"It's like you going to a restaurant and buying chicken and getting a bill for others who ate before you and didn't pay for their food. How is that fair?" said Alex Sanchez, president of the Florida Bankers Association, a group that represents more than 400 banks and financial institutions in Tallahassee. "These associations have to understand the backlog of foreclosures that we have in our state. Bankers are not delaying foreclosures because they want to."

The Stoneybrook communities have caught the eye of advocates who fight what they say are abusive homeowners associations. They complain that Gustino not only conceived these punishments, but that he is a Stoneybrook West resident elected to his community's board and hired by the same board to represent it.

"He comes up with all kinds of inventions to get more money out of people using the community association's powers," said Jan Bergmann, president of Cyber Citizens for Justice, an anti-HOA group in DeLand. "Stoneybrook uses some very outrageous methods."

Gustino denied any conflict of interest, but he announced this week that he will no longer seek re-election to the board, partly to avoid a "lingering perception" that could become "an unnecessary distraction to the Board's work."

Donna DiMaggio Berger, an attorney and director of the Community Advocacy Network in Fort Lauderdale, which advocates and lobbies on behalf of more than 55,000 property-owner associations in Florida, said HOAs have to be aggressive to protect their interests.

She said the associations' collection efforts also have to avoid and overcome legal challenges. Associations have a stronger tool — foreclosing on properties themselves rather than waiting on banks, she said.

"The purpose is to collect your dues, not to be punitive and not to exact your pound of flesh," Berger said. "You can put anything in a set of documents, but it has to stand the test of being reasonable, and that's where associations have to be smart about what they do."

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