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Great Homes

Special Assessments: When Your Board Wants More of Your Money

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In February, when the Apache Wells development in Mesa, Ariz., approved plans for a new $8.5 million community center, many homeowners were not happy with their share of the bill: $6,020 each.

Opponents of the center, including some whose properties are second homes, have taken their disagreement to court, describing the voting process as flawed. Among the problems, they say, is that some absentee second-home owners did not have enough time to receive their ballots and mail them back — an accusation the board's lawyer, Eric Jackson, said he is reviewing.

A special assessment — a fee approved by a homeowners association or a co-op or condo board to cover items not provided for in the budget — can often be a controversial, unpleasant and expensive surprise, especially to a second-home owner, who may not be around enough of the year to be aware of all the issues. But there are some steps buyers can take to protect themselves, or at least limit the possibility that they will be hit with unexpected and costly assessments.

In some parts of the country, especially Florida, special assessments are becoming more common because of quickly rising insurance rates. Lawyers say that some owners in Florida have seen bills as high as $50,000.

Bill Raphan, who runs the Fort Lauderdale branch of Florida's Office of the Condominium Ombudsman, called special assessments "one of the most complained-about issues that come into our office," which often acts as an intermediary between condo association boards and homeowners.

The board of a Miami condominium recently invited Mr. Raphan to explain a special assessment to a group of homeowners, he said. At the meeting, tempers quickly escalated. "Someone got so angry, he pulled a gun," said Mr. Raphan, who was immediately escorted safely from the building (he does not know whether the man with the gun was arrested).

In Florida, it was the highly active and damaging hurricane seasons in 2004 and 2005 that led insurance companies to increase rates, in some cases by as much as 300 percent for condominiums. The increases often depleted financial reserves.

In addition, because of a Florida law allowing condo owners to reduce payments into their association's reserve fund, the possibility of putting money aside for a future emergency has effectively been eliminated. As a result, many condo associations have had no choice but to bill owners for storm repairs, insurance deductibles and premiums.

"Very few budgeted for the huge increase in insurance," Mr. Raphan said.

Assessments, of course, aren’t levied only because of catastrophic storm damage or rising insurance premiums. Any project, from installing a new roof, to repainting the exterior a different color, to renovating a lobby area, can engender a special assessment.

Lawyers say that once an assessment is passed there is rarely any recourse, especially if the vote was conducted properly and appropriate notice was given. (Approval can require just a board vote, or may also need majority support from the homeowners — it depends on state rules and the goal of the assessment.)

The time for residents to speak up, the lawyers say, is before the vote, when it is still possible to hammer out issues like whether the assessment must be paid in a lump sum.

It may be feasible for homeowners to negotiate a payment plan — and even to cushion the potential impact by increasing the amount of assessment coverage in their homeowner insurance. Vacation-home shoppers (and primary-home buyers) interested in a community with a homeowners association can also investigate the likelihood of being hit with a special assessment.

Whether a board will be open to different payment plans depends entirely on its nature. “Sometimes you will get a sympathetic board,” said Eric Glazer, a lawyer in Hallandale, Fla., who concentrates on homeowner association law. “These board members might not be able to afford the large assessment either.”

There are ways to tell whether a development is likely to approve a special assessment anytime soon. Michael Altof, a real estate agent with Prudential California Realty in San Diego, recommends that a potential condo buyer request relevant documents from an association. A buyer can also find out how much the association has in its reserve fund.

“Buyers have the right the request the minutes of the previous year’s meetings,” Mr. Altof said, to learn about the condo’s issues and whether its finances are questionable. Simply talking to potential neighbors can also help determine whether an assessment is looming.

Buying in a new building diminishes the likelihood of an assessment, he said, because there is usually little or no need for immediate maintenance. Repairs in a new building may also still be the obligation of the developer.

In coastal areas that have seen a jump in insurance premiums, a special assessment may be all but a given. “Buying in Florida, there will be a special assessment,” said Gary Poliakoff, a lawyer with Becker & Poliakoff in Fort Lauderdale. He has seen $50,000 special assessments, he said, though the $2,000-to-$5,000 range is much more common.

Mr. Poliakoff recommends that owners consider increasing the assessment coverage in their homeowner policies (or buying it, if it is not already included). Condo owners are likely to have a loss-assessment rider that covers just $1,000, he said. But that coverage can be raised to $10,000 or even $50,000, with an increase in premium starting as low as $25 a year; whether there is a deductible depends on the insurance company.

If the assessment was properly passed, of course, an owner is required to come up with the money. Mr. Poliakoff, a founding principal in a firm that represents about 4,300 homeowner associations, said that if an owner refuses to pay, the association can place a lien on the unit and even foreclose on it. If owners don’t pay, landscaping can be neglected and the building can fall into disrepair — and property values can drop sharply.

Mr. Poliakoff’s final counsel to buyers: “Go in with your eyes open.”