

## propose superliens on condos

### Foreclosed homes cost groups in lost fees

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In the past three years, the Meadows of Aurora cluster-home development has experienced four foreclosures. Two more are under way, and a third foreclosure effort is likely to start soon.

The neighborhood, off East Mennonite Road near Ohio 43, has been strapped for several years. The developer, Hersh Construction of Hartville, went out of business in 2008. Only 40 of 66 planned homes were built. And the Winslow Estates Condominium Owners Association, which manages the community, was left to grapple with undeveloped land, unfinished streets and other expenses.

As foreclosures mounted and the economy soured, the monthly fees that residents pay for maintenance and services such as lawn care and street clearing rose from \$109 a month to about \$139. Owners don't want additional fee hikes or special assessments, said John Stojak, the association's volunteer president. That's one reason he is backing legislation that would give Ohio owners associations the ability to recoup some of the money they lose when owners stop paying their fees and fall into foreclosure.

State Reps. Kenny Yuko and Brian Williams, Democrats from Richmond Heights and Akron, respectively, recently introduced legislation to help associations like Winslow Estates.

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### Superliens would help condo groups collect

House Bill 408 would put condo associations ahead of banks when it comes to collecting money from the court-ordered auction of a foreclosed home. Under this "superlien," associations could collect up to six months of unpaid fees before the primary mortgage-holder gets paid.

When a condominium goes through foreclosure, the owner usually stops paying monthly association fees. Those unpaid bills can add up to thousands of dollars, especially when the foreclosure process lasts two or three years. At the end of the foreclosure, the home is auctioned at a sheriff's sale. The proceeds are used to pay real estate taxes first, and then to reimburse the bank that provided the first mortgage. Recently, however, these sales have not been producing enough cash to cover the mortgage — much less to pay the condo association, which is next in line.

So condo associations across the state have been cutting services or raising fees for all residents. David Kaman, a Cleveland attorney who represents home-

owners associations, said his clients have deferred painting and gutter-cleaning. Some associations are plowing less often. Others have closed community swimming pools and clubhouses.

"You see more and more people walking away from their homes, and if the mortgage-holder has first lien rights, then a lot of times these associations are left holding the bag," said Jack Renner, whose Renner Management Group of North Royalton manages about 60 associations in a five-county area. "Before, it seems like maybe one or two foreclosures would come across my desk in any given month. Now, it seems to be that number in any given week. It's just astronomical, and I don't know if it's going to change any time soon, either."

More than a dozen states have passed superlien laws. Yuko, who has garnered support from a handful of Democrats, expects his bill to meet some resistance from the banking community. Several banks declined to comment for this story, and the Ohio Mortgage Bankers Association did not respond to a request for comment.

"I've heard from bankers, and some say it will create an unfair advantage for associations," said Yuko, who argues that a bank is better able to absorb the loss — several hundred to several thou-

sand dollars per condo — than an association would be. "These are the same people that support our banks and our credit unions. They're not going to put extra money in the banks if they're spending money on additional condominium assessments."

Stojak said a superlien would lessen the pain for the Winslow Estates association, which has been particularly hard-hit by the real estate collapse. When Hersh Construction abandoned the project, the Meadows of Aurora was left with roads that need a top coat and vacant land that requires mowing. Those expenses fall on top of the association's routine duties, which include lighting, picking up trash and spending \$1,000 to \$1,500 a year to remove muskrats from retention ponds on the property.

"Quite honestly, it wouldn't solve all the problems," Stojak said of the superlien legislation. "But it may bring more attention to the fact that associations such as ours are experiencing serious issues. And it might encourage the counties to speed up the process for foreclosure. Even with the superlien, if we gain six months of fees back, we may have 24 months of fees we didn't receive."

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