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**FIRST CLASS MAIL**  
**ADDRESS SERVICE REQUESTED**



## **THE BROWARD COALITION, INC.**

Over 200 Condominiums, Homeowners Associations & Community Organizations  
Dedicated to Serving the Needs of Our Community for Over 25 Years  
[www.browardcoalition.org](http://www.browardcoalition.org)

### **NEWSLETTER & MEETING NOTICE**

#### **SUNRISE LAKES CONDO ASSOC. PHASE 1**

**8100 Sunrise Lakes Drive North (the Clubhouse)**

North University Dr. North of Sunrise Blvd, turn East onto Sunrise Lakes Dr.  
Go to Stop sign, go left, pass circle w/tennis courts. Park in lot "Guest" spots.

*Happy New Year!*

### ▼ MEETING NOTICE ▼

**JANUARY 9, 2009 11 a.m. SUNRISE LAKES PHASE 1 Clubhouse**  
**8100 SUNRISE LAKES DRIVE NORTH**

*We are grateful to CHARLES R. MAXWELL II, ESQ. for enabling us to leap to a new era.*

## **CHARLES RAY MAXWELL II, P.A.**

### **CORPORATE, FAMILY, REAL ESTATE LAW ASSOCIATION & LEGISLATION ISSUES**

**This is an opportunity to learn from and ask questions of  
a very well-educated attorney!**

**Reservations a MUST! Call Mary Macfie 954-336-3335 by JAN. 5**

## **Biography of Charles R. Maxwell II, Esquire**

Charles R. Maxwell II completed his undergraduate and graduate studies at the University of Florida, where he earned a Bachelor of Science Degree in Finance with Honors, a Masters in Business Administration, and a Juris Doctorate degree.

Upon completion of his studies, Mr. Maxwell was admitted into the Florida Bar and immediately began practicing law in 1999. He started his career working with the law firm of Nabors, Giblin & Nickerson, P.A, where his practice primarily focused in the areas of debtor in possession financing in Chapter 11 corporate bankruptcies, affordable housing, and municipal bond law.

Next, in 2001 Mr. Maxwell established the law firm of Charles Ray Maxwell II, P.A. where he broadened his areas of concentration to include a full spectrum of corporate law, corporate and residential real estate, land development and zoning, estate planning and family law. During this period, Mr. Maxwell became familiar with the development of and operating issues associated with condominium associations, and his law firm currently represents several condominium and homeowner associations in the Central Florida area.

Then, in 2003 Mr. Maxwell established a commercial land development company and initiated a multi-million dollar land initiative to enhance the local community and stimulate business development along the Interstate 4 Corridor in the Downtown Orlando area. The initiative continues to exist and grow today, and it is expected to continue to enhance the local businesses and economy as this area continues to redevelop itself.

Finally, Mr. Maxwell continued to expand his legal practice in 2007 with the opening of his newest law office in South Florida. The law office is located in the town of Lauderdale By The Sea and primarily services legal matters in Palm Beach and Broward Counties.

### **Contact Information:**

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## NEW BROWARD CONSUMER PROTECTION INFORMATION

Environmental Protection & Growth Management Dept.-Permitting, Licensing and Consumer Protection

Address: 1 University Drive  
Plantation 33324

954-765-4400 X 141135  
E-mail: [consumer@broward.org](mailto:consumer@broward.org)

### RULES OFFER OPT-OUT FOR ROBOCALLS

From Miami Herald's Action Line

Federal Trade Commission rules took effect recently saying telemarketing calls that are recorded in advance—also known as **robocalls**—from businesses or charities must include ways to opt out of future calls....Calls from businesses consumers have a relationship with and legitimate charities are still allowed under Do Not Call.

Under the new rules, a **prerecorded** message has to offer a way to cut off the call and ban future calls from the same source by pressing a particular number or saying a word. You can report violations by visiting the FTC's Complaint Assistant website or calling **877-FTC-HELP**.

If the calls are left on an answering machine, the message must include a toll-free number to use to stop future calls. This all applies to calls made to homes, not businesses, and political calls are still not restricted.

**From the Community Advocacy Network (CAN) Website**

The new Board Certification form required by Section 718.112(2)(d)3 of the Condominium Act is now available. The new law requires an individual who wishes to run for the board to certify, in advance of the election, that he or she has read and understands to the best of their ability the association's governing documents, the Florida condominium law and the administrative code.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES AND MOBILE HOMES**

**Condominium Association Candidate Certification Form\***

I, \_\_\_\_\_, certify that I have read and understand to  
(print name of candidate)

the best of my ability, the governing documents of:

\_\_\_\_\_  
(print name of association)

and the provisions of this chapter and any applicable rules.

Signed: \_\_\_\_\_  
(signature of candidate)

Date: \_\_\_\_\_

\*required by section 718.112(2)(d)3., Florida Statutes

## WAITING FOR THE BANK TO FORECLOSE: A MODERN DAY STORY

**BY: DONNA D. BERGER, ESQ.  
KATZMAN GARFINKEL ROSENBAUM**

As I'm sure you are aware, in addition to association foreclosure actions there has been a dramatic and unfortunate rise in the number of mortgage foreclosure actions filed against owners within community associations. However, due to the decreased value of these properties caused by the Sub-Prime collapse as well as the real estate market bust, most mortgagees (lenders) are reluctant to complete their foreclosure actions.

The reasons why are numerous. So long as the properties are not foreclosed and taken back by the banks, they are still listed as an asset on the banks' books as opposed to a bad debt. In the near future, you will see many of these lenders merging and acquiring each other due to accelerated fallout which, experts predict, will continue to occur over the next 12 to 24 months. For purposes of acquisition or merger, losses on paper are always viewed more favorably than bad debt. Thus, the trend of lenders commencing foreclosure actions, but not concluding them, will likely continue.

Please consider the following illustration:

In the market's heyday between 2005 and early 2007, a property that would have sold for \$400,000.00, today has a market value of \$240,000. Assume that same \$400,000.00 property has a first mortgage for \$320,000 and a second for \$70,000.00. Now that the value has dropped below the amount of the first mortgage, the property is identified as being "Upside Down." However, the home's upside down status is purely a *paper loss* as long as the bank does not acquire title to the property. As such, the bank sees no advantage to taking the property back through foreclosure in these present market conditions. In fact, once the bank completes its foreclosure action it must do the following:

1. Pay attorney's fees and costs associated with same, as well as any bankruptcy legal costs;
2. Rehabilitate and repair the property usually as a consequence of any gutting or destruction caused by the delinquent owner(s);
3. Pay for property preservation and carrying costs of the property, i.e. insurance, taxes and electric;
4. Pay for expenses associated with the eviction of the prior owner(s) or occupant(s) if they have refused to vacate the premises, as well as unpaid back taxes due and water/sewer charges owing;
5. Hire a realtor to market the property at 3% - 6% of sales price for commission and attempt to obtain a buyer in the present overstocked and low demand housing market;
6. Pay the condominium association 1% or 6 months past due maintenance assessments, whichever is less, within 30 days from issuance of title;
7. Pay the homeowners' association 100% of all that is owed in legal fees and costs as well as maintenance, late fees and interest within 30 days from issuance of title, if the property is taken back prior to July 1, 2008;
8. Pay the homeowners' association 1% or 12 months past due maintenance assessments, whichever is less, within 30 days from issuance of title, if the property is taken back after July 1, 2008;
9. Pay the condominium or homeowners' association for all regular assessments that come due from the date of issuance of title forward as well as any special assessments levied by the association for cash flow shortfalls due to high delinquency rates within the association or special assessments levied for any other reason; and
10. Continue to pay for all assessments levied, special or regular, so long as the title to the property remains in the name of the lender. Due to present unfavorable real estate market conditions, lenders could be forced to hold on to such properties for a long time.

As you can see, there are few, if any, benefits today for lenders to take title back to properties on which they have made loans. As a result, it is no longer advisable, in most circumstances, for associations to halt or suspend their own collection efforts in the hopes that the bank will do the job for them since banks will, in many circumstances, start the process and not complete it.

It is important to remember that the bank's liability for past due assessments is limited as stated above no matter how long they allow the foreclosure action to remain open. Thus, the bank can comfortably delay completing its foreclosure action knowing the full extent of its liability for past due assessments. This delay benefits the lender and the debtor; the only one damaged by the delay is the association and its paying members. Each month the association does not act to remove the non-paying owner, the following can occur:

1. Owners within the association who continue to pay their fair share of the common expenses will be aware that owners who are not paying are not being pursued by the association. As a result, the morale of these paying owners will suffer especially if non-paying owners are seen enjoying the benefits of membership including use of the common facilities, cable, water and insurance coverage;
2. The morale of paying owners may deteriorate to the point that they too stop paying their maintenance;
3. Delinquency rates may rise to the point that there will not be enough cash flow to properly operate the association and to provide essential community services;
4. Owners who can freely avoid paying their assessments may become emboldened to not abide by the association's use restrictions and Rules and Regulations. The resulting nuisances and violations will further erode community morale and may disturb the quiet enjoyment of other association members; and
5. The association will be unable to mitigate its damages by renting the property in the short term or attempting a short sale with a third party to try to re-coup some of its financial losses until its foreclosure action is completed.

Due to the backlog in the court system as a consequence of the volume alone, a mortgage foreclosure action that would normally take 4 to 6 months to complete is now taking a minimum of 9 to 12 months or longer. Association counsel has seen repeated delays of final hearings and the banks' counsel are no longer willing to provide status to inferior lien holders, like the association, as to when if ever these actions will be completed. In addition, a cottage industry has cropped up where borrowers fight their lenders over foreclosures due to lost promissory notes and other banking irregularities which can delay resolution of the mortgage foreclosure for years.

Prior to the bursting of the real estate bubble, it was common knowledge in this industry that a bank's action would be completed expeditiously from start to finish given the positive equity in most properties. Therefore, most associations immediately suspended their own collection efforts and simply monitored the bank's action when they became aware of a pending mortgage foreclosure action. This usually resulted in the bank dispossessing the non-paying owner of the unit without additional legal fees and costs to be incurred by the association. In essence, they did our job for us.

Obviously, the rules of engagement have changed as a result of market changes. There are several legislative proposals being discussed that will either hold lenders more responsible for past due assessments beyond the current statutory caps or force lenders to diligently pursue their foreclosure actions in non-owner-occupied units in order to enjoy their limited liability. Regardless of the outcome of that legislation, it is essential that a community association with collection files speak to its attorney about how to best pursue the amounts owed to the community in order to continue providing essential community services.

## **How to Protect Yourself: Health Fraud**

*Source: The Florida Attorney General's Office*

Every year people trying to improve their health are taken advantage of by those trying to capitalize on the trend toward better lifestyles. Whether people are spending money on diet pills, smoking cures, health clubs, exercise equipment, vitamins, cancer or AIDS cures, or low-calorie foods, it seems there is always someone out there to promise a miracle in exchange for money.

**Always check with your doctor** before you purchase and try diet pills, start an exercise regimen, or begin taking an assortment of vitamins. Many diet pills contain ingredients that can be harmful to individuals with high blood pressure, heart disease, or diabetes, or pregnant women. Someone who does not exercise at all should be wary of a fast-talking, high pressure sales pitch from a health club, and should consult with their physician as to whether such an exercise regimen is appropriate for their current physical condition. Also, some vitamin plans may be unnecessary, since many of the foods you eat everyday already offer a good supply of vitamins and other nutrients.

## **Broward Community Association Board Members Go to “Boot Camp” to Get Basic Training in Florida Law**

Sunrise, Florida (December 8, 2008) – In Army boot camp, soldiers go through a rigorous training program to get ready for potential battle with the enemy. In the context of the boot camp held recently at Sunrise Lakes Condominium in Sunrise, training was meant to help “soldiers” avoid war, not with an enemy, but with their own neighbors.

The three-hour program, hosted by the not-for-profit Community Advocacy Network (CAN), served as basic training for people who volunteer on their condominium and homeowners’ board of directors. On this day, the Board Member Boot Camp was held for members of the Broward Coalition, the county’s largest and most powerful coalition of condominium and homeowner associations. About 100 people participated.

Playing drill sergeant for the day was Mike Oliver, a seasoned community association attorney with the law firm Katzman Garfinkel Rosenbaum, the creator of CAN. Playing his role to the T, Oliver was decked out in military fatigues, army boots, and a crew cut hair style. He was flanked by “Officers” Donna DiMaggio Berger, a firm partner and also Executive Director of CAN, as well as attorney and firm partner Ken Zielberger. Together the team drilled the “troops” with questions on Florida law as it pertains to proper association governance. Among other items, the group learned the dos and don’ts of negotiating contracts with vendors, proper ways to hold meetings, when you should update governing documents and rules on board elections.

“Most people who serve on boards are well-meaning volunteers who want to make their communities better places,” said Berger who conceived the Boot Camp idea. “But in order to do their jobs effectively they need to know the law. What we wanted to do is provide people with a basic understanding of the best practices, but in a way that was fun and interactive.”

Charlotte Greenberg, president of The Broward Coalition, said she thought the Boot Camp program was a hit.

“The program was an effective and creative way to introduce new board members to the rules they must follow, and for the more veteran board members, it was a great way to brush up,” she said. “The more we know about the rules, the more effective we can manage and avoid costly mistakes.”

The Community Advocacy Network hosts free Board Member Boot Camps for large groups throughout Florida. To schedule a session for your association, call 954-315-0372.

CAN is a not-for-profit initiative started by Katzman Garfinkel Rosenbaum, a statewide law firm based in Fort Lauderdale that concentrates its practice on community association law. CAN advocates on behalf of more than a thousand associations, homeowners’ associations and other common interest ownership communities. Besides legislative support, CAN also offers an Affinity Program that provides members access to special discounts and services from participating vendors such as banks, insurance agents and accounting services. CAN also offers “Board Member Boot Camps,” free seminars to community association board members so they can learn best practices and become better leaders in their neighborhoods. The Boot Camps are available to both CAN and Non-CAN members alike. Membership in CAN only costs \$150 per year with discounts given to larger umbrella organizations. For membership information call 954-315-0372.

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Boardroom Communications  
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