

## **ABANDONED UNITS CAN CREATE PROBLEMS**

*by Lisa Magill, Esq.*

Condominium units need attention. The lack of care or attention to a unit can create a myriad of problems for the condominium association and the neighboring residents.

If the owner abandoned the unit, is not paying the mortgage and not paying association assessments, there is a strong likelihood that the owner is not paying the utility bills. What typically happens in Florida if there is a lack of air conditioning and ventilation in a unit? That's right, mold can develop and that mold can quickly spread to other portions of the property.

The association is not generally liable for a condition in a unit - primary responsibility rests upon the owner. But, if the owner is for all intensive purposes non-existent, then the association has a duty to take steps to prevent harmful conditions that will negatively impact the common elements and the other units. While the Florida Statutes already had a provision that allows the association the irrevocable right of access to a unit when necessary to maintain the common elements or prevent damage to other portions of the property, a new proposal clarifies what preventative measures are appropriate and, possibly more importantly, allows the association to charge the costs back to the owner.

**SB 798 and HB 807 both allow the association to:**

- ✓ enter the unit for the purposes of inspection;
- ✓ repair the unit or the common elements serving the unit;
- ✓ turn on utilities for the unit; or
- ✓ otherwise maintain, preserve or protect the unit and adjoining common elements.

As indicated above, any costs associated with these actions are chargeable against the unit and the unit's owner. The association even has the authority to include the charges



in its claim of lien. Nonetheless, in many cases the association will not be in a good position to obtain reimbursement if the unit is "under water" and potential buyers are not interested in negotiating a short sale with the bank.

If the bill passes, community leaders can make the determination that the unit is abandoned if the unit is in foreclosure and no tenant or occupant has resided in the unit for a period of 4 weeks, or if the association has no way to contact the owner (after conducting a reasonable investigation to locate the owner) and the unit hasn't been occupied for the last two months. Notice goes to whatever address the association has on file for the owner and may be sent electronically if the unit owner has already given consent to use his or her email for official documents.

Mold is just one of the examples of what can happen if there is a lack of care and attention to a unit. Association leaders often have to confront rodent or pest infestations, water damages from active leaks and in some cases even squatters have taken up residence in abandoned units. Those community leaders will have better tools available if this bill becomes law.