

Editorial: Tougher oversight needed to curb condo board corruption

OPINION



Posted: 9:46 p.m. Tuesday, February 14, 2017

With no income tax and low business taxes, Florida has earned its reputation as one of the lowest-taxed states in the nation. Or has it?

There's a dirty little secret about the cost of living here that doesn't show up on those "Top-10 Lowest Tax State" lists: New residential developments usually require association dues — sometimes very large, unpredictable dues that can make it difficult for people on fixed incomes to plan for long-term housing expenses.

Unfortunately, corruption and lack of transparency too often add to the cost.

State oversight over condo association funds in Florida has historically been weak. Likewise, consequences for mismanagement or misspending have been light.

A Miami-Dade grand jury report issued earlier this month found as much: "Because the condo laws and regulations lack 'teeth,' board directors, management companies and associations have become emboldened in their willful refusal to abide by and honor existing laws in this area."

Recent action by Florida's Department of Business and Professional Regulation here in Palm Beach County shows that the state is capable of providing teeth, when and if it dedicates the resources. But those resources haven't kept up with housing growth, the grand jury found.

In the case of the 20-building Whitehall condominiums on Village Boulevard in West Palm Beach, the state's action was many years in coming. Irregularities began in 2010 and continued unabated until 2015. By then more than \$1 million in association funds had vanished or been misspent, according to documents obtained by The Palm Beach Post's Tony Doris.

State regulators found board members during those years had spent a great deal of the money on themselves and committed multiple civil violations of state condo law, Doris reported.

Inquiries, subpoenas and depositions revealed that association money had been withdrawn from casino ATMs, while other withdrawals couldn't be accounted for at all. Meanwhile, three supposedly unpaid condo directors were on the payroll as security and property management staff. Two denied wrongdoing when contacted by Doris. A third could not be reached.

The Florida Department of Law Enforcement has investigated the circumstances around the depleted funds and referred its findings to the Office of the Statewide Prosecutor, Doris wrote. If criminal charges are filed, there's a possibility insurance may kick in and cover the missing money, giving residents some relief, current board members said.

Meantime, Whitehall residents now find themselves forced to pay an estimated \$1,200 a year over and above standard dues to replenish the depleted accounts.

Call it what it is: a corruption tax.

As condo law expert Jeffrey A. Rembaum notes, every condo owner in the state is taxed \$4. That money is collected by associations and sent to the state. More of it needs to be used to ensure good governance. "It gets usurped by the Legislature and applied to projects other than the Division of Condominiums," Rembaum said. "If we had more resources at the division level, maybe we would have less Whitehalls."

Residential associations ideally offer communities a mechanism to beautify and maintain their neighborhood, and in that way preserve value. But abuses abound. Association boards have tremendous power, free from most of the constraints of openness and good government that municipalities and other taxing bodies must follow.

How many other Whitehalls are out there? How much do bad boards add to the cost and stress of living in Florida?

Taxation without proper oversight is a recipe for trouble. Homeowners shouldn't have to sue to oust a corrupt board.