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Community Association Advocate Donna DiMaggio Berger Counsels Communities to Aggressively Pursue Collections

Community Advocacy Network Executive Director Says Associations Should Neither Wait for Banks to Pay Up, Nor Rely on 'Silver Bullet' Strategies While Aggressively Pursuing Collections

MIAMI, FL--(Marketwire - November 23, 2010) - Community Advocacy Network Executive Director Donna DiMaggio Berger told Florida radio listeners today that condominiums, HOAs and other community associations hard hit by bank foreclosures and delinquent assessments should not look for "silver bullet" strategies that may work on a limited basis, but rather aggressively pursue collections, while impressing upon association members that failure to pay assessments will result in aggressive pursuit of liens and foreclosure.

Ms. Berger said that far too many associations are in a detrimental time-warp, adopting a "wait-and-see" stance as to whether or not the banks are going to foreclose.

"We tell our associations that if you wait you might be waiting for months and years," Ms. Berger said, while the association is "losing out on an opportunity to aggressively move forward on their foreclosure, to get that property and rent it out."

Ms. Berger made the remarks on South Florida National Public Radio-affiliate station WLRN's Topical Currents program, during a panel discussion moderated by talk show host Joseph Cooper. A full audio recording of the WLRN Topical Currents radio program is available for listening on the website of the Community Advocacy Network at www.canfl.com.

Regarding an association's ability to move forward with its own foreclosure action, Berger said that "people don't understand that an association has the ability to foreclose on a homesteaded property, just like a bank, and an association foreclosure will typically proceed much smoother than a lender foreclosure. Owners should not feel that they are 'safe' from an association foreclosure (because) there are not the same entanglements that there are with a lender foreclosure."

Ms. Berger also cautioned that innovative strategies designed to go after the banks to take title to the properties are not a substitute for everyday good collections practices. While there are strategies that do work in some fact-specific circumstances, she said that attorneys "do a disservice if we oversimplify the issues" or lead associations to believe that these solutions will work for every community.

In some cases, Berger said that she has "seen the banks have walked away and yet some of the media coverage has led people to believe that this has been accomplished by forcing banks, where they've actually gone to court and fought this and the association has prevailed over the bank. That hasn't happened. In all the cases thus far, the bank has walked away and mostly because the property has been valued at less than \$50,000."

Berger said changes to Florida community association legislation passed in 2010 have gone a long way toward addressing the foreclosure crisis and delinquent assessments, along with other pressing issues of concern to common-interest ownership communities in the state.

"One of the biggest changes we saw was the ability for all types of associations to collect rent from tenants in delinquent units and properties," she said. "Previously, you had to go to court and get a receiver to do this, now you can do it by statute."

Another was fire-sprinkler retrofit relief for older high-rise buildings, which she called "the crowning achievement" for the statewide Community Advocacy Network,

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a not-for-profit, non-partisan organization established in 2007 and dedicated to improving the quality of life of the millions of Floridians who live, work and serve in common interest ownership communities.

"We have an 11-member Advisory Council that literally went to county and city commissions around the state and got resolutions on this," Berger said. "It's a huge cost saving for these older communities that now they only need a majority of their members to opt out of these sprinkler systems. And, once every three years a majority can vote to opt in, so it really is giving complete self-determination to these communities."

She noted that while the 2010 Florida legislative changes were significant, there is a need to introduce legislative fixes to clarify a number of issues, such as an association's ability to suspend delinquent owners' use rights in the common areas and the ability to collect rent from tenants in delinquent units.

"There are two things you don't want to see being made -- laws and sausage. These things go into bill drafting and they come out mangled," Berger said, adding that CAN will be leading the fight to have a legislative "glitch" bill introduced and passed next year to help clear up these ambiguities.

Those interested in listening to the NPR-WLRN radio panel discussion about mortgage foreclosures and assessment collections in Florida community associations can go to a full audio recording of the program online at: www.canfl.com.

For more information about the benefits of Community Advocacy Network membership, the organization's activities around the State, and the upcoming release of its 2011 Legislative Agenda for positive changes to Florida community association law, please contact tchristiana@canfl.com or phone 954-315-0372.

About the Community Advocacy Network (CAN)

The Community Advocacy Network (CAN) is the leading statewide advocacy network dedicated to promoting positive community association legislation while advising legislators to resist the urge to micromanage and over-regulate private residential communities. CAN works through its website, email alerts and tools such as the "Capitol Connection" email system to give association leaders and residents the information and resources they need to play a meaningful part in the legislative process before harmful bills are passed. Capitol Connection enables our members to contact their elected officials at every level of government with just the click of a button. For more information, visit www.canfl.com or call 954-315-0372.

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