



Services, Inc.

BRISTOL MANAGEMENT NEWSLETTER

Fall 2011

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Newsletter
is published periodically
as a tool to
communicate with
Board Members
and friends regarding
association issues and Bristol
news of interest.
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STRATEGIC FORECLOSURES

Recognizing the long delays occurring with the mortgage foreclosure process and with banks not in a hurry to take title to Units that are delinquent in their mortgage and Association assessments, Associations may look at the option of the Association taking title to the Units via the Association foreclosing on the Units subject to the bank mortgage. The bank will eventually foreclose taking the title back from the Association. Each Unit has its own set of facts that the Boards must look at very closely before making such a decision. But many times the Association has been waiting for the bank to proceed with foreclosure for over three years. By taking title, the Association is trading the time it takes the bank to foreclose, which is usually at least 18 months. That time lag is sufficient for the Association to lease the Unit and recoup most, if not all, of the Association's delinquent assessment, legal fees, fix up cost, and management cost, through rental income. The goal is to manage the delinquency problem in an attempt to get ahead of the curve of the growing losses. In the past, Bristol and most attorneys recommended allocating for Bad Debt.

Before the Board makes a decision, it is useful to inspect the Unit for "rodent and/or infestation / squatters". To do this, the Board must authorize this under the Health and Safety provision in almost every set of documents. It requires a locksmith to open the door and the police present to verify no one is present and the house is safe. We sometimes will re-key the Unit, but put a sign on the door stating we have the key, and if you have legal right to the Unit, come to the Bristol Office. We want someone to take responsibility for the Unit. Once inside, I recommend digital pictures of the inspec-

tion to document the condition of the Unit.

If the Unit is trashed, "mold, no appliances, wires pulled from the wall", the Association may not wish to take title to the Unit because it would cost too much to fix it up to rent. Therefore, a list of needed maintenance items should be made so the Board can decide if they wish to proceed with foreclosure. Another important issue is how much the Unit can be rented for, and if the Association can break even in approximately 18 months. It might be a good business decision for the Board of Directors.

Once the foreclosure occurs, it is taking approximately 6 weeks for the Clerk of Court to issue the Association title. Sometimes this will trigger the bank to proceed with foreclosure, so that is why the 18 months is important.

The Association will have to pay all of the utilities, deposits and most attorneys agree the Association need not pay property taxes and property insurance. Usually the Association can get its insurance policy to cover liability. For a Condo, an HO6 policy is recommended.

An indemnification and fee schedule is required for Bristol to be involved in rentals and all the fees go directly to the Property Manager handling the rental unit. The liability of tenant/landlord law is a whole new set of concerns. F.S. 83 Part II.

The Advantages and Disadvantages:

Advantages:

- The Association may recoup some, if not all, delinquent assess-

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Bristol Update

E-Blasting: We are slowly getting more email addresses from the owners. We have benchmarked most Associations so that the Board can understand the penetration to the owners. Email does save the Association money as another tool to communicate to the owners.

Video Conferencing: Conferencing is available for Associations. Many of our Manager Classes are arranged this way so the Manager doesn't lose time traveling. We encourage Board members to consider video conferencing for daytime meetings.

Assessments: Payment via credit card has proven to be extremely successful. Any homeowner can go to the Bristol Web Site and pay online.

Real Estate / Title Company: Like the Vendor Meeting, Bristol Management will be hosting a Seminar on November 14th, 2011 from 6:00 to 7:30 p.m. for the Jupiter and Palm Beach Gardens areas, and November 21st, 2011 from 6:00 to 7:30 p.m. for the Port St. Lucie area. Mandy Birch, Real Estate Specialist, will explain in detail how to obtain Association information, estoppels, and P.U.D.'s to insure a smooth and clean closing. Refreshments will be provided. Please R.S.V.P. to Mandy@bristolmanagement.com

Board Member Seminars: Based on request, we are moving the dates of our Seminar for Board members during season so more Board members may attend. One Seminar will be held January 14, 2012 in the Jupiter area, and the other Seminar on February 4, 2012 in Port St. Lucie. We are finalizing the speakers and program to be more informative in the attempt to keep you as a Board member, better informed. More information will come.

www.bristolmanagement.com

2011 LEGISLATIVE CHANGE

The Legislature during its last session spent most of its time working on the State's financial challenges and did very little on the Condo 718 and HOA 720 statutes. However, the meltdown in residential real estate had disastrous consequences for many of the condominium and homeowner associations. Due to the economy, foreclosures have created major financial shortfalls for association essentials such as the upkeep of the communities which then has a further downward trend of home values. Some homeowners and condominium owners have fallen 1, 2 or 3 years behind in their assessments as lenders are still extremely slow to foreclose and, as we all know, the Association's lack of meaningful power to collect assessments.

Many Associations are having difficulty paying for basic services such as utilities, landscaping and insurance. Some of the attempts the legislature tried to do were the following with limited success:

The power to collect rent directly from the renters of delinquent owners for all assessments and other monetary obligations. The State has a pre-approved standard letter stating that the Associations can send

to both the Owners and Renters to pay the rent directly to the Association. However, the real world result is many renters do not pay which means the Association must make the business decision to evict the tenant for an approximate cost of \$600 to \$1,000 which still does not get the Association any money, but the demand letter should be standard procedure.

Another new law allows the Association to bar delinquent Owners from use of the common area such as pools and spas. This works for gated communities and/or clubhouses, but in most cases, there is no way to enforce the provision. The idea of Owners physically confronting another Owner or Renter for entering a pool area is a disaster waiting to happen.

The State also has given the right to the HOA to cut off cable service for delinquent Owners, but they forgot the delinquent Condominium Owners. However, Comcast, the main cable provider, refuses to turn off the cable even if we pay a fee. They have gone so far as to say it is against the law. In Port St. Lucie, there is a different cable provider, and it has proven to be a great collection tool, but Comcast has made a policy decision non-negotiable.

Another change which is useful is clarifying voting rights of an Owner who is delinquent. Therefore, their voting rights are suspended and are not counted towards the total number needed to constitute a quorum to conduct an election and/or to amend documents. This enables Owners in good standing to conduct Association business and delinquent Owners with suspended voting rights don't count as "no" votes.

Regarding personnel issues, Board of Directors may now have closed meetings and that the official records no longer include Owner addresses, email addresses, phone and/or fax numbers unless a Unit Owner gives permission to make his or her information public.

As I said earlier, it really was a quiet year for HOA and Condo law. On our Website, Bristol has posted a number of legal opinions from different law firms and you can view the entire statutes so you can reach your own interpretation of the changes.

Steve Inglis, PCAM, President of Bristol Management Services Inc. in Jupiter and Port St. Lucie.

STRATEGIC FORECLOSURES *Continued from page 1*

ments not limited to 1 year's assessment if the bank forecloses.

- Eliminates unsightly abandoned / deteriorating properties in the neighborhood.
- Negative cash flow becomes a positive cash flow.

Disadvantages:

- Association becomes a landlord. All tenants must be advised the lease is subject to the bank foreclosure. This must be in the lease agreement.
- Bad behavior from tenant will be seen as caused by the Board.

- Uncertainty of when the bank will foreclose.

Sometimes when the Association attempts to foreclose, a third party bidder will take the property. This results in the Association getting paid in full. And sometimes you can get the old Owner to Quick Claim the deed. This particular strategy enables an Association to maintain ownership and recoup the assessment losses through rental income until such time as the bank ultimately forecloses.

This is not the silver bullet, but it may be

the best decision of all of the bad choices the Association has. The Board must get directly involved in the business decision. Each set of facts are very different. The Board cannot say foreclose on all delinquent units. Only do one or two at a time and stabilize them before taking on any more. It takes a lot of work and time. Bristol can assist, but this is above and beyond Association management. Consider this with Extreme Caution.

DISCRIMINATION

Many mature Communities have documents that have never been changed because it is extremely difficult if not impossible because of the high percentage requirement and/or mortgagee approval. With the economy down, some lawyers are looking for reasons to sue associations (big pocket books) over documents or rules that violate the Federal, State and County discrimination laws. There are 11 protected classes in Palm Beach County. Unlike Condo law and HOA law, if there is a conflict with the laws, 90% of the time the State laws prevail and you just ignore the conflict in the Documents. You cannot discriminate against any of the 11 classes as defined in County Ordinance, State law and Federal law, and the Association is subject to suit whether or not the Association tried to enforce the rule. If the provision is in the documents, an illegal provision is enough to bring action against the Association.

In addition, if someone files a complaint with the Legal Society, they can bring action (suit) against the Association on an anonymous complaint even if the Association is not actually violating any of the illegal provisions. Like in ADA, some attorneys/people are looking to bring action against the Association because they know most Associations carry good insurance, yet these claims will drive premiums up if not cancelled completely.

Some pool rules ban children in diapers while others simply ban under an arbitrary age when people presume children are toilet trained. Despite communities' well intended motives, some communities find themselves defending claims that their rules are in violation. There have been two court cases on the point of pool rules designed to prohibit children in diapers. The first case argued the pool was for seniors, and the second argued that the health of the bath-

ers justified the rules. An attorney brought in an expert from the Broward County Public Health Department. She testified that there is no health reason to exclude children of any age from a pool, and stated that she has had problems with human waste in the pool of "adults only" pools, and that there is no correlation between the age of the swimmer and the sanitary condition of the pool. The Associations were fined thousands of dollars and all attorney fees. Even Senior Communities that are "adults only" cannot discriminate on the basis of the age of residents using the pool. Acceptable language by the Courts is "any person who is incontinent or not fully toilet trained must wear appropriate waterproof clothing when entering or being carried into the pool."

55 years and older communities do exist. There are two types. 100%, but you must prove by age verification via affidavits, and there is more of a concern over who occupies the unit, not who owns the unit. I strongly encourage any community to seek legal advice because there also is an 80/20 rule that allows exemptions. And many times Senior Housing Communities try to enforce the "adults only rule" only to find that it is unenforceable and subject to fines and legal fees.

Ban Bad Behavior not Children. Behavior in common areas such as hallways, parking lots, pool areas and fitness areas. Rules regulating conduct in common areas and within the building are legitimate ways to prevent disturbances that interfere with the resident's quiet enjoyment of the units.

For the most part, it is best to adopt rules that focus on dangerous or disruptive behavior instead of on the age. I have always said, there are no bad dogs, just bad owners of dogs. Likewise, there are no bad children, just bad parents.

Federal and State Fair Housing Act. The Federal and State Fair Housing Act pro-

hibits discrimination based on race or color, national origin, religion, sex, disability, familial status, age, marital status, gender identity or expression, or sexual orientation. Many Boards and Associations think just because they don't discriminate, they are okay. If a Board thinks that they cannot get the members to approve an amendment, they should go to the Court and get a **Declaratory Statement** from the judge.

ENERGY / COST EFFICIENT

CFL's, compact fluorescents, are currently the inexpensive energy efficient alternative to incandescent bulbs, but the future of lighting technology appears to be LED's, or light-emitting diodes. LED light bulbs perform well in all lighting applications, are dimmable, offer a superior quality of light, and deliver all of this plus more energy efficient than other bulbs. Current offerings from Philips and other major manufacturers are designed to compete directly with CFL's at a competitive price point. Please contact your property manager if interested in joining in a Bristol Bulk Purchasing Program to start complimenting your lighting system with LEDs. We have converted some of our larger condominiums to LED lights, and have seen some very significant savings in electricity and a very short payback from the capital expenses.

Steve Inglis, PCAM, President of Bristol Management Services Inc.

TRAINING SESSIONS FOR BRISTOL MANAGERS ARE REWARDING

By: **Susan Queen**, AMS, CMCA, LSM, PCAM

We have worked very hard in diversifying Training Sessions for the Bristol Managers since we started them in 2009. This year we have been able to give our Managers numerous classes that gave them credits towards renewing their manager's license. Every two years managers have to renew their license with the State of Florida by accomplishing 20 CEU credits in the following categories. Law-4 credits, Finance and Insurance-4 credits, Human Resources-4 credits, Operations-4 credits, and Electives/Other-4 credits. Having the courses at our Jupiter office and remote video conferencing our Managers at the Port St. Lucie office saves our Managers money and precious time from having to travel to take the courses elsewhere to get their required credits.

This year we started the Training Sessions June 1, 2011 and we have held classes every Wednesday from 4:00 p.m. to 5:00 p.m., for 1 CEU credit or some classes were held 3:00 p.m. to 5:00 p.m. due to the Managers receiving 2 CEU credits

We are proud of the speakers who took the time in sharing their expertise and eagerness in speaking to our Managers.

The Training Sessions we have provided for our Managers along with the Speakers who presented the session are listed below:

"Elevator Modernization" Speaker: David Mittenthal ThyssenKrupp Elevator	"Building Restoration" Speakers: Mike Zawaki Presentation Dynamics	"Financial Statements" Speaker: Nicole Johnson and Mr. Haefer Haefer and Company
"Meeting Packages" Steve Inglis, PCAM Liz Diaz, PCAM	"Diversity" Speaker: Mike Zawaki Presentation Dynamics, Inc.	"Time Management" Speaker: James Hotchkiss, CMCA, AMS, LCAM Bristol Management
"2011 Legal Update" Speaker: Attorney Jeff Rembaum with Siegfried, Rivera, Lerner, DelaTorre & Sobel P.A.	"Foreclosures" Speaker: Harvey Silverman Director at New Haven Homeowner's Association	"Coaches Clinic" Speaker: Mike Zawaki Presentation Dynamics, Inc.
"Tequesta Agency and Duraclean" Speaker: Geoff Mayfield, Matt Mitchell – Tequesta Agency Gary Gorin – Duraclean	"Building Tour" Speaker: Mike Zawaki Presentation Dynamics, Inc.	"Swimming Pool Procedures and Laws" Speaker: Robert Cummings State of Florida Department of Health
"CCR Class" Speaker: Christine DiRenzo, LCAM Bristol Management	"Roofing Class" Best Roofing Speaker: Greg Wallick	"Mold" Speaker: Mike Zawaki Presentation Dynamics, Inc.
		"Hurricane Preparedness" Speaker: Steve Inglis, PCAM Bristol Management

Steve and Nadine Inglis, the owners of Bristol Management strive everyday to give their Managers the best education, technology, and tools to work with in order for them to continue to be the best in the Management profession. All of their Managers appreciate them for their support and for such a great company to represent.

PREFERRED VENDORS *Continued from reverse side*

existing account than to take on a new client. What we as Managers want is to have our clients be happy with the services provided, "a good job".

At the end of the program, Steve introduced Bristol's Managers, Administrative Assistants and Accounting staff to the vendors so that when the meeting was over, the vendors could introduce themselves to the Managers so that they would be given the opportunity to bid on new work. Overall, the Vendor Program is more successful than any of us anticipated. We currently are work-

ing on another program for the Title Companies and Real Estate Agents handling rental/resale applications, PUD approvals, Estop-pels, etc. and encouraging them to do the entire process online. Again, time is money and being as efficient as possible is the best way to maintain our competitive superiority.



Stay tuned for a Board Member Program this winter which will be our 8th year designed to inform the Directors of current issues challenging the Associations.

DISASTER RESPONSE / PLANNING

Water intrusion, leaks and fires are always big deals in a Condominium Association. Many times, the expense is shared between the Association and different owners and different insurance policies. Unfortunately, these emergencies never seem to happen during normal working hours and almost always require emergency action. This requires management to authorize restoration remediation from water extraction companies as soon as possible and that puts the Association and owners on the financial hook. If you wait for the emergency, it puts you in a very bad position to negotiate prices which are almost always open ended time and material. Most insurance companies use a fee schedule from a software program called Xactimate, but some restoration companies get individuals to sign proposals at much higher rates because "it was an emergency". This creates major problems for the Association and/or the owners when the insurance companies will not pay the difference.

Bristol is using a number of companies and has worked out an arrangement where, through Bristol's Advantage Program, the company will evaluate the entire building, scan the construction drawings, and identify the emergency shut-off switch, emergency generator, fire sprinkler system, electrical room, and will put everything online for the Building Manager and Board members to use in case of an emergency. Therefore, when there really is an emergency, everyone knows how to shut everything down, how many square feet is damaged, and pay at an agreed upon cost the insurance companies have already agreed on paying. (This does not address deductibles).

However, the insurance company and their adjuster can process a claim much faster having all of this information online. Condo owners all need to have HO6 coverage for the contents of their units. Think of it this way, "no fault" insurance is not who caused the leak, but who is going to pay. It's not what is fair, but what is legal, which is always

a learning curve when these claims happen. The insurance adjuster understands the law, and the owners are upset because it's not "fair".

By planning, Bristol has been able to use the computerized drawings to help perform reserve studies and insurance appraisals for replacement value. Also, when contracting physical work on the building, the various contractors can access the construction drawings in preparing proposals. There is no fee for the service of scanning the drawings and doing the pre-planning. A complete digital inspection of the building and components as part of the survey, making claims and restoration easier.

The Restoration Company makes their money if and when an emergency occurs by doing the restoration work, but using Xactimate's pre-agreed rates it is going to cost less and at the time of renewal of the property's insurance, we hope to see some reduction in premiums. Insurance companies like emergency plans, and we all know failing to plan is a plan for failure. Just another example of the Bristol Advantage Program.

PREFERRED VENDORS

Bristol Management hosted a meeting for all of the vendors that provide services for the Associations Bristol manages. On an annual basis, Bristol's communities spend 109 million dollars on services that the Associations require to maintain their community. **Steve Inglis** welcomed over 400 vendors on July 11th at the Jupiter Community Center. Steve explained that the average Property Manager handles 6 to 8 associations and approximately 1200 units (homes / condos), which means a manager on average may work 50 hours a week. **Time is our most precious commodity.** As vendors, the best way to deal with the Manager is to do a good job and communicate via email. We explained how Work Orders are generated by the Administrative Assistant and/or the Property Manager by email or fax. One of

the most important things is that the contractor complete the Work Order and email it when it is complete so that the Work Order can be closed. It was also explained how a Work Order Summary Report is then provided to the Board of Directors. We encourage digital pictures of a job completed or anything unusual. It was stressed how busy the Managers are, and that we really don't have time to go to lunch with the vendors.

Tiffany Jackson gave a power point presentation on how to sign up as a Preferred Vendor and everything that is done via Bristol's website which requires a scanned insurance certificate outlining minimum insurance requirements and copy of their licenses. To be accepted, you have to have done work for one Association and be recommended by a Manager. The Preferred Vendor process must be done online so that the submittal goes directly to our database and into the proper fields. This process enables Bristol to track up-to-date insurance and other up-to-date information to communicate with the contractors. Once the vendor is approved, all of this information will go right into the Bristol website. Currently we get 4,000 to 5,000 hits everyday with the Vendor page being one of the most frequently visited pages. This is also what the Property Managers use to look for new vendors when bidding out new work.

Liz Diaz spoke about the importance of customer service, doing the job right the first time, and how the vendor's performance has a direct reflection on Bristol Management. Liz explained the way Managers find new vendors to bid on services is usually by recommendations from other Property Managers who are satisfied with the job performed by the vendor for the Association they manage. The same holds true if a vendor does a poor job, the Manager can have the vendor removed from our Preferred Vendor page, therefore doing an unacceptable job for one of our associations has a much bigger consequence. She also reminded everyone it is much easier and cost effective to keep an

BRISTOL MANAGEMENT SERVICES, INC.

Professionals in Property Management
Maintaining Communities in "Bristol" Condition



The sailboat is the Bristol symbol for what we represent:

Dedication to providing our pledge of excellence to our employees, to our homeowners and their Board of Directors.

The **"HULL"** of the sailboat represents support - support services from departments such as Human Resources, Customer Service, Accounting Department, Real Estate Specialist and Information/Technology Services

The single main **"MAST"** represents our Offices, holding fast to the **"HULL"**, rising tall to support the main sail.

The main **"SAIL"** represents our management teams - Community Managers, Administrative Assistants, Service Personnel, Bookkeepers and many other support personnel who assist in the operation of our communities.

The **"WIND"** that fills the sails is our homeowners - without whom we would not sail.

Finally, the Bristol **"BANNER"** flies atop the main **"MAST"** as our proud reminder of who we are and what we represent.

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