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Cape may foreclose to collect unpaid fees

By Don Ruane

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Originally posted on December 16, 2005

Cape Coral resident Mary Walsh is frightened that she, her husband and daughter might be the first family in the city's history to lose their home to foreclosure for an unpaid city utility assessment.

Other families have complained about the size of the assessments for work done in southwest Cape Coral over the past 10 years.

One group of homeowners even filed a lawsuit over the issue that's been unsuccessful. On top of assessments and impact fees totalling around \$12,000, property owners faced plumbing costs for connections and expenses for destroying septic tanks.

Bills are usually between \$15,000 and \$17,000 but can exceed \$20,000. Some people took out loans to cover the bills and incurred interest.

More residents will face assessments for utilities as the city extends water and sewer lines into their neighborhoods in the next 10 or 11 years.

The city has yet to foreclose on a home with a homestead exemption since it began cracking down in 2002 on delinquent assessments, lot mowing bills and stormwater fees.

HARDSHIP DEFERRAL

Cape Coral provides a hardship deferral program for residents who have difficulty paying utility assessments and impact fees.

- The program uses household income to determine amount of deferral if eligible.
- Deferrals range from 10 percent to 100 percent of annual amount due. Undeferred amounts remain due.
- Income guidelines are set by the federal Department of Housing & Urban Development.
- Residents must reapply each year.
- Applicants must be permanent city residents with homestead exemption on their residence.
- Property taxes must be current.
- The fee is 1 percent of on deferred amount. Interest continues to accrue on the deferred amount.
- To request an application, call 574-0401 ext. 2433 or download from the Web: www.capecoral.net/citydept/fiserve/CustomerBilling/HSAPPLICATION.pdf.

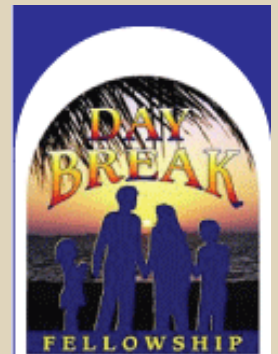
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Since then, the city has collected \$6.2 million of the \$8 million that was due. The city has collected from 1,132 of 1,497 properties handled by the foreclosure attorneys. Twenty-six properties were sent to the foreclosure attorneys earlier this month.

"We're not holding things like we used to do," city spokeswoman Connie Barron said. "People didn't care about paying. We weren't coming after them."

Walsh owes about \$5,000 for a sewer line installed in the mid-1990s. She owed \$12,114.61 in 1997 when the assessments started but has paid it down to \$5,000.

Walsh, 56, said her family is burdened by medical bills for her husband and college costs for her daughter and said she is the sole provider for her family, but the city won't accept her offer to pay \$25 or \$50 a month.

Attempts to work out a payment plan with the city and to qualify for a hardship deferral program failed. The case is in the hands of the city's foreclosure attorneys, although no foreclosure case has been opened yet in the courts.

There are no state statutes that protect a home from foreclosure for delinquent assessments, said City Attorney Dolores Menendez.

"I'll give them \$50 a month, but no, they wouldn't take it. I don't want to lose my home," Walsh said. They've lived in the home at 510 S.E. 31st St. since 1980.

A list of 30 hardship deferral cases is scheduled for city council approval in January, but the Walshes are not one of them, Barron said. The deferral program only postpones the debt and the interest continues to add up, Barron said. The deferral must be renewed each year.

A Nov. 9 letter from the city's foreclosure attorney gave Walsh the chance to pay \$2,013.32 and bring her account current or \$4,990.15 to erase the entire debt. The amounts were good through Nov. 30. She missed the deadline. The city's first contact this year with Walsh about her account was in January.

"They're not listening to reason. My husband has cancer," Walsh said. "We pay \$100 to \$200 a month just for the doctors and he's had four surgeries and that's \$1,200." Her insurance program requires a \$300 co-pay per surgery, she said.

Her husband, Gary, 59, was diagnosed with prostate cancer in 1991 and left his job as a car salesman as a result.

Their 19-year-old daughter attends Florida Gulf Coast University with the help of a federal loan. The family helps out with books, paying an estimated \$600 each semester. Their daughter does not work so she can concentrate on getting good grades, Walsh said.

"Whatever income she could provide wouldn't be worth what working could do to her grades," Walsh said.

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Walsh applied for a hardship deferral in November and was denied because her income as a licensed insurance agent and her husband's Social Security disability is too high.

The maximum income for a three-person household that the city allows under the deferral program is \$38,950. The limit is a federal guideline used for a variety of assistance programs for low-income earners. The Walshes have a household income of about \$60,000.

City officials said they were unable to document medical expenses for Gary Walsh from the information provided, she said.

City records also showed Walsh's payment record has been sporadic since 1997, but Walsh attributed that to the financial stresses brought on by her husband's health situation and college expenses. The couple refinanced their home twice to cope with their debts.

The Walshes were assessed \$3,582.41 for water and irrigation and charged an impact fee of \$410.83. They were assessed \$7,099.70 for sewer service and charged an impact fee of \$1,021.67.

Walsh made a series of monthly payments of \$50 during 1997 and about \$2,000 in January 1998.

"Then there was nothing else until April 2003," Barron said. "We haven't received another payment since 2003."

Walsh can appeal the denial of her hardship deferral application to the city council.

Others have struggled through situations and managed to pay their assessments, said City Councilwoman Dolores Bertolini, who refinanced her home to pay off her assessment.

But you have to look at each case to see what the property owner has done to pay off their assessment, Bertolini said.

"The first focus of the city is to work with the homeowner and help them in every possible way. The city bends over backwards on many cases," Bertolini said.

Councilman Jim Jeffers said he's reluctant to foreclose on someone's home, but the city does have to be fair to all property owners who were assessed for utilities.

"Government contributing to homelessness seems counterintuitive," Jeffers said.

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