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March 2019 Newsletter

Homeowner associations— your friend or foe?

Source: AARP Bulletin

We have some clients that have really strong feelings about their homeowner's association. According to the AARP, there are now more than 345,000 community associations in the U.S. today, compared to only 10,000 in 1970. "Community associations" includes homeowner's associations, condo associations and co-op's.

In Texas, a typical homeowner's association is created when a neighborhood developer decides to build a new neighborhood. A homeowner's association is created to manage the common areas, pay the common area utilities and other expenses of the homeowner's association, enforce rules and protect the property values of residents.

"Declarations" creating the homeowner's association are recorded in the county records, which makes all the homes built in that neighborhood subject to the rules of the homeowner's association, often including the need to pay annual dues or assessments to the homeowner's association. These Declarations "run with the land" so they are binding on all future owners.

When you buy a home in a neighborhood with a homeowner's association, you generally sign a "PUD rider" or Planned Unit Development notice, giving you legal notice that you are going to be subject to the rules and fees of the homeowner's association. If you don't want to be subject to the rules of a homeowner's association, you have the option to buy property in another area that is not governed by an homeowner's association.

Anyway, most of our clients' disputes with homeowner's associations have to do with attorney's fees charged them when they have failed to timely pay their annual or monthly homeowner's association dues. Perhaps our client had a financial hardship, and couldn't pay their homeowner's association dues on time. Unable to pay, they ignored the collection notices from the homeowner's

association.

Before long, they find themselves receiving "lawyer letters" or even a lawsuit from their homeowner's association demanding not only the few hundred dollars for the annual dues, but thousands of dollars in attorney fees.

An example in the February 2019 AARP Journal is pretty typical. AARP reported that Leah Lally, a 51-year old homeowner from Tampa, Fla got \$700 behind on her homeowner's association dues (**see Dues next page**)



If you live in suburbia like many of us do, you are probably subject to the rules and regulations of a homeowner's association.

Quotes:

Anyone, anywhere, can make a positive difference.
—Mark Sanborn

Remember, today is the tomorrow you worried about yesterday.
—Dale Carnegie

A day without laughter is a day wasted.
—Charlie Chaplin

*Our law firm is a federally designated Debt Relief Agency under the United States Bankruptcy Laws.
We help people find answers to their debt problems, including when necessary, helping them file bankruptcy under the United States Bankruptcy Code.*



Mr. Black receives award from Houston Bar Foundation

On February 14, 2019 Mr. Black received an award from the Houston Bar Foundation for "Outstanding Contribution to Houston Volunteer Lawyers by a Solo." The program reads: "J. Thomas Black is being recog-

(Dues from previous page) because she was suffering from financial hardship while caring for her sick parents. She requested a payment plan from the homeowner's association. The association said they would present her offer to the homeowner's association board. While waiting for a response, two months later Ms. Lally received a letter from a law firm putting a lien on her home.

Ms. Lally decided to fight because "it's not right." Now her homeowner's association claims she owes \$15,000, about \$10,000 from attorney fees and other charges. According to the article Ms. Lally's court case is ongoing and she says "It's cruel that they are aiming to put me out of my home."

Here in Texas, having an unpaid debt for dues to a homeowner's association can lead to the loss of your home, just like in Florida. And while it seems cruel to put someone out of their house, and perhaps something else should have happened in Ms. Lally's case, I can see it both ways.

Unless a homeowner's association can credibly threaten to foreclose their homeowner's association lien and take houses, how are they supposed to collect the annual dues that they need to operate? After all, the officers and directors of homeowner's associations are almost always volunteers, other homeowners from the neighborhood. They generally hire management companies to actually bill and

nized for his devotion to assisting low-income Houstonians with bankruptcy and tax matters, as well as promoting volunteerism among his peers. Throughout the last 20 years, Mr. Black has handled over 80 pro bono cases and always has at least two active bankruptcy cases through HVL. He proves how just one lawyer can use his skills and expertise to change the lives of so many."

Mr. Black previously received several awards for "pro bono" or free service to indigent Texans including the award for "Outstanding Individual Contribution" from the Houston Volunteer Lawyer's Program in 2003. He received a Pro Bono Service Award from the U.S. Bankruptcy Court, Southern District of Texas in 2003.

He also received a Pro Bono Service Award from the State Bar of Texas Bankruptcy Section in 2012. Our law firm, Law Office of J. Thomas Black, P.C., was designated as an Equal Access to Justice Champion law firm in 2014 by the Houston Bar Foundation, the Houston Bar Association, and the Houston Volunteer Lawyer's Program.

If you need legal help in the Houston, Texas area and cannot afford it, contact the Houston Volunteer Lawyer's Program ("HVLP") at 713-228-0732 (within the Greater Houston area) or Lone Star Legal Aid ("LSLA") at 713-652-0077 (outside of Houston). To qualify for free legal assistance you must fall within strict income guidelines, provide proof of eligibility and cooperate fully with the service organization and your assigned attorney. ■

collect the homeowner's association dues.

And when homeowner's fail or refuse to pay, what can the management companies do, except turn it over to attorneys for collection? The management companies often enter into payment plans with the delinquent homeowners, but if they still don't pay, there is really nothing else they can do, besides turn the delinquent accounts over to attorneys for collection and if necessary, foreclosure on the homes of the delinquent homeowners.

If you find yourself in this situation, and unable to pay the high amount demanded by your homeowner's association or their attorneys, at least there is an option. If you qualify, it's possible to file chapter 13 bankruptcy, stop the legal collection action, keep your home and propose a plan to pay the delinquent homeowner's association dues and attorney fees over 3 to 5 years.

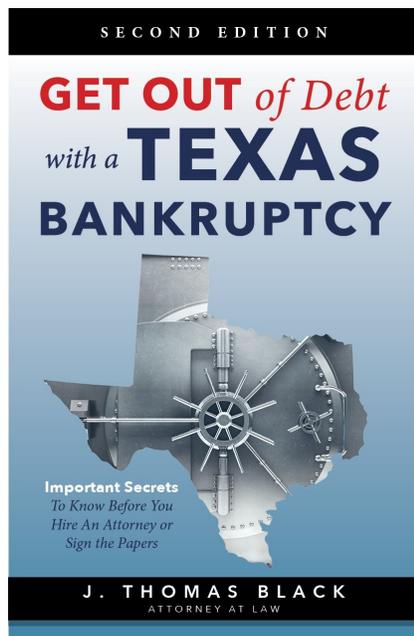
Filing chapter 13 can at least allow you to keep your home and pay what is due over a long period of time at a level that you can afford. If this is your situation call our office at 713-772-8037 and make an appointment to meet with Mr. Black or his associate attorney.

Dispute with your homeowner's association about improvements to the property or repairs they want you to make? That's outside the scope of this article but we can refer you to attorneys that handle those disputes. ■

Learn to bounce back from setbacks

Every career comes with a few—or more—setbacks. You can't avoid them, so you have to learn how to deal with them and bounce back. From the CNBC's Make It website comes this advice for recovering from even the toughest failures:

- **Learn and adjust.** When a disaster strikes, even a small one, take the time to figure out what happened. Then you can adjust your strategy so it



If you or someone you care about is having financial difficulties, at least find out what your rights are before something bad happens. Mr. Black's book "Get Out of Debt with a Texas Bankruptcy" is available at no charge for a limited time. You can download your free copy instantly at jthomasblack.com or pick one up at our office.

doesn't happen again.

- **Help other people.** If you're generous with your time and expertise, people will willingly help you out when you fail. Make a point of assisting your co-workers and friends so they'll feel inclined to return the favor when you need them.
- **Focus on what you can control.** Obviously, some things are beyond your reach. Don't worry about them, and keep your mind on what's in

your control. This will help you move forward.

- **Keep the faith.** Remember that you've succeeded before and will again. Think of the setbacks you've survived, and remind yourself that you didn't give up then. Next, commit yourself to action.
- **Find allies.** Surround yourself with people who not only help you, but encourage you. A circle of positive people who believe in you can give you the confidence to keep going in spite of failure.
- **Accept responsibility.** Don't blame others for your failure. Maybe they broke promises, but in the end, the responsibility for fixing things is up to you. Own up to your mistakes honestly, and share what you're doing to rectify them today and avoid them in the future. ■

ALERT-Informed Delivery-should you sign up?

The US Postal Service has a new service that allows you to track your mail- Informed Delivery. You sign up, and each day you receive a scanned copy of the front of (most of) your inbound mail. It also alerts you to incoming packages. But according to Kiplinger's Personal Finance magazine, anyone can sign up with their email address and your name and mailing address. So if you don't sign up, ID thieves may be able to see your incoming mail and intercept it, think credit card statements. Solution? Sign up first, only one email address is allowed to sign up per account. ■

Thank you for your referrals!

We accept referred cases in the following areas-

Chapters 7 & 13 Bankruptcy.

I.R.S. Settlements and Payment Plans.

ARE YOU IN CHAPTER 13 NOW?

PLEASE always keep the law office updated with your current address, telephone numbers, and email address. We may need to reach you quickly.

You can check on the status of your Trustee payments, how much you still owe on your case, etc., by going to www.ndc.org to set up your user ID and password.

Are your chapter 13 plan payment too high? Lose job or overtime? It may be possible to surrender property or if your situation has changed to lower your payments. If this is your situation, contact our office for an appointment to prepare a Motion to Modify.

J. Thomas Black was licensed as an attorney in Texas by the Texas Supreme Court in May, 1982. Mr. Black is Board Certified in Consumer Bankruptcy Law by the Texas Board of Legal Specialization.



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A Little Humor – The “when I was your age” edition...

Josh loved golf. One day he arrived at a golf course hoping for a tee time, and the starter asked if he'd mind making up a twosome with another golfer, an elderly man who had a grizzled gray beard. Josh couldn't say no, and they both teed off and started down the fairway.

To Josh's pleasant surprise, his partner was a very good golfer, and they played a close game. When they got to the 18th tee, Josh saw a tall pine tree standing directly between him and the green.

“You know,” said the old man, “when I was your age, I'd just tee up and hit my ball right over the top of that tree.”

Josh took it as a challenge. He selected his club, teed up, and slammed his ball hard and high. The ball rose into the air, then hit a branch, ricocheted off the trunk, and flew right back to land not three feet from where Josh had teed off.

“Of course,” said the old man, “when I was your age, that tree was only 12 feet tall.”■