

# Standard Marketplace Home

## About Real Estate

### FILING BANKRUPTCY WON'T ALWAYS WIPE-OUT UNPAID HOA BILLS

BY DAVID W. MYERS

*Filing for bankruptcy may help you discharge debt, but it won't wipe out unpaid HOA bills. The bankruptcy court can't force the association to start unpaid homeowners association bills.*

DEAR MR. MYERS: We live in a townhome development, and the fees we pay to our homeowners association have been going up almost 20 percent annually for the past several years. I lost my job earlier this year, and we have fallen three months behind on our HOA dues. If we file for bankruptcy, can the association still try to force us to make up for the missed payments, or file a lien against our home if we don't?

ANSWER: It depends on a variety of factors, including the date that you're thinking about filing for bankruptcy and the steps that the HOA has already taken to collect your delinquent payments.

Bankruptcy laws were seriously tightened by the federal Bankruptcy Abuse Prevention and Consumer Protection Act, which took effect almost exactly three years ago. Though the law has made it much more difficult for consumers to "qualify" for a bankruptcy filing, it also specifically addresses the rights and obligations of both a homeowner and an HOA when a bankrupt owner is in arrears on the association's monthly dues.

If the association hasn't yet slapped a lien on your property for the unpaid dues, the act provides the bankruptcy judge the ability to discharge some or all of the dues and special assessments that you didn't pay before your filing date. But this is no get-out-of-debt-free card: Any dues or assessments that are levied after the filing generally cannot be discharged and instead will have to be paid.

In addition, if the HOA has already put a lien on your home for the unpaid dues (or puts one on it later if you get behind after the Bankruptcy Court's discharge), the association can usually go forward with foreclosure action against your house just as a bank could if you didn't pay your mortgage.

Federal bankruptcy laws are complex. Adding to the confusion, some states have more recently approved laws that further protect owners who are behind on their dues, while others have passed measures that strengthen an HOA's rights to collect on missed payments. You'd be wise to consult both a bankruptcy lawyer and a local real estate attorney for details about a resolution to

your personal financial situation.

DEAR MR. MYERS: I have noticed that some of the new housing developments and remodeling jobs in my neighborhood involve the use of blue-colored framing instead of the traditional white or yellow wood. What gives?

ANSWER: It's a relatively new building product that carries the trademarked name BluWood, and was created by a Florida-based company called WoodSmart Solutions, Inc.

The wood is blue because it's treated with a special water-repellent film that helps to prevent mold growth, the manufacturer says. The company also says the wood has a chemically safe preservative that provides an additional layer of protection against termites, other wood-eating insects, dry rot and other fungi.

DEAR MR. MYERS: My 7-year-old son says that the Earth is shorter than it is wide. I say that it's a perfect circle. Please tell me that I know more than my third-grader!

ANSWER: Sorry, but your son is the winner on this particular real estate/geographical question.

Measured at the equator, scientists and geographers generally agree that the circumference of the Earth is 24,901.55 miles. But measured from the North Pole to the South and back again, it's 24,859.82 miles -- a roughly 42-mile shortage.

In other words, this tiny celestial ball on which we live is both a bit wider around the middle and a little shorter than thought. Sort of like me, as I approach my 50th birthday.