Lowndes

Insights

Discharge of Condominium and Homeowners' Assessments in Bankruptcy

Article
02.05.2018

The Florida Bar Journal

Since the early 1990s, the federal courts have struggled with whether, and to what degree, a debtor in bankruptcy who receives a discharge is free from liability for post-petition condominium and homeowners' association assessments. The issue is important to condominium associations and homeowner's associations, as well as debtors in bankruptcy. Because the association's assessment lien is often junior to mortgages, foreclosure of the lien may be useless. Therefore, an association might bring a lawsuit seeking a personal money judgment against the owner, hoping the owner's other assets will satisfy the assessment. The debtor's ability to discharge the assessments is, therefore, of paramount importance. While an owner who has been stripped of assets in bankruptcy is not an ideal defendant, associations have sometimes sought to hold discharged debtors liable for delinquent assessments. The question of whether post-petition assessments are discharged takes on added importance because a "discharge injunction" precludes enforcement of a discharged debt and is enforceable by sanctions.[1]

Read the full article.

Related Attorneys

David E. Peterson

Related Expertise

Creditors' Rights & Bankruptcy

Real Estate