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**SW Florida foreclosures**

# Vacated properties an upkeep nightmare

Code enforcement choosing  
punishment to fight blight,  
rewards to encourage sales

**By Kelly Farrell**

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A rat-infested Marco Island home with screens flapping in the wind and a sinking seawall is what Charlie Vollmer sees as he looks next door at a foreclosure property.

Vollmer, acting as an unpaid property manager for a neighbor, removes debris and works to protect his own yard from sinking further into the canal because of the foreclosed home's failing seawall. He's adding privacy shrubs between his home and the one next door that was abandoned two years ago.

Other caretakers for the property include Marco Island Code Enforcement officers and Realtor Andrew Delgado, working on behalf of the Bank of New York Mellon. Delgado arranged lawn mowing while city workers temporarily secured that seawall to protect Vollmer's seawall from falling into the drink.

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Such conditions aren't isolated to Seminole Court on Marco Island.

Pools that have turned green and stinky from algae, mounting trash and debris, broken windows, and lawns with tall weeds are reported in many communities throughout Southwest Florida. Cape Coral was dubbed the foreclosure capital of the nation throughout 2008 and still is grappling with blight caused by foreclosure on properties, although it recently fell to No. 6 in the nation for its foreclosure rate.

Code enforcement is the primary tool cities and counties are using to help keep pools safe, properties clean and neighbors protected.

But communities reporting the greatest success in dealing with code enforcement problems brought on by foreclosure and neighborhood blight are doing so by getting the government out of the property management business.

Instead, they are using punishments and rewards to encourage banks to take responsibility for the foreclosed properties they hold.

In some communities, however, fines are growing like weeds where the customary method of code enforcement violations and fines still are used. These communities haven't made adjustments for the changed market.

In several cases in those communities, code violation fines already are higher than the house's listed sales prices and still are mounting astronomically. That's a result of fines as high as \$250 per day, per violation, in Bonita Springs and Marco Island, which have the steepest code penalties among governments in Southwest Florida.

"That accomplishes nothing. It creates an administrative nightmare," Diane Flagg, code enforcement director for Collier County, said of high fines. "It doesn't help the community, doesn't help the bank and it doesn't help the government dealing with the problems. All it does is create a paper tiger for the government agency."

Marco Island leaders acknowledge problems with their old code ways, but haven't agreed yet on the best new solution. Leaders in Bonita Springs, the community with the highest accruing fines, say they aren't looking to make any code policy changes.

"There has been no justification in making adjustments to our policies," Bonita Springs acting code supervisor Danielle Helmick said.

Bonita is successfully working with financial institutions, she added.

Lee County government did change policies and no longer bothers trying to collect high daily fines, said Joan LaGuardia, a Lee County spokeswoman.

"We're pretty much, in this economy, being realistic," LaGuardia said. "The reality is, we're not likely to see it (the money). These people can't even pay their mortgage."

## Unpaid fines and liens owed to Southwest Florida cities

**Marco Island:** \$3.6 million

**Naples:** \$283,000

**Bonita Springs:** \$11 million

**Lee County:** \$1.1 million

**Collier County:** \$2 million

## Common per day fines

**Marco Island:** \$250

**Naples:** rarely enforced

**Bonita Springs:** \$250

**Lee County:** \$75

**Collier:** varies, \$100 to \$250

Their priority is compliance and getting enough back to cover taxpayers' costs, she added.

Many Realtors say they wish other communities would follow Lee County's lead.

High accumulated fines scare off potential buyers, said Delgado, of Premier Plus Realty on Marco Island.

Under Marco Island's code, fines can't be mitigated until the violation is corrected, which Delgado said just exacerbates the problem.

The banks, not able to control the stakes in their investment, aren't as inclined to make the repairs, he said.

"We're at a four-way stop and nobody wants to move," he said.

On Marco Island, the Seminole Court home's list price with Premier Plus is \$299,000. Code fines on the property are about \$350,000, the highest in city history, and continue to grow at a rate of \$500 each day for a falling seawall and failure to connect to the city sewer system.

It will cost as much as \$50,000 to replace the seawall and connect to the sewer system.

The code fines on a Bonita Springs home at 10190 Carolina St. show an even greater disparity in the fines compared with the property value. Code fines there are nearly \$400,000 for failure to pull a permit for improvements. The average house on Carolina Street is selling for a fraction of that fine.

Properties such as these are leading some government officials to debate whether to use a carrot or a stick to gain code compliance and restore neighborhoods' integrity through foreclosure sales.

Marco Island officials have considered a slew of remedies the past few months, including amnesty programs, lower daily fines, increased fines and mitigation before compliance. They can't agree on what will work best.

Meanwhile, just over the bridge, in unincorporated Collier County, a blight prevention program initiated in November 2008 won the 2009 National Association of Counties Achievement Award.

"Clearly it was one of the better tough-times programs that we've seen," said Jacqueline

Byers, the association's director of research and outreach.

The county's success came from developing public and private partnerships to maintain neighborhoods without spending tax dollars, Byers said.

The blight prevention program includes five community task force teams, which are comprised of code enforcement personnel, attorneys, law enforcement officers, fire district officials, utilities, Domestic Animals Services, civic associations, homeowners associations and other organizations.

Together, they work with banks and lenders, creating community care-taking lists and investigating code cases. Their goal is preventing foreclosure and preventing the blight created by foreclosure.

The program prompted banks to repair code violations on 1,059 properties, Flagg said. They spent about \$1.5 million in the county through early April. Banks are spending an average of \$20,000 per week on property improvements in Collier.

The first step in getting out of the traditional code enforcement paradigm is to look at the crisis from the financial institution's perspective, she said.

"We're going to need them (the banks) to achieve our goals," Flagg said. "It was really a carrot and a stick. We can help you, but you have to help us. We'll help you maintain your assets."

"... And yes, we can make your life really difficult," she added with a laugh.

Among the benefits banks see from Collier County's program are lowered daily fines, inspections to assess the property's status and needs, a database of contacts and offering a single contact between code officials and banks.

A member of the community foreclosure task force team working with code enforcement e-mails the bank's contact as soon as a pending lien is filed with the Collier County Clerk of Courts, informing them what needs to be done before fines begin.

"It's a completely non-bureaucratic, non-red tape process," Flagg said.

Among the punishments are super priority liens, which ensure the county is paid in the sale of a property before all other debts, except first mortgage liens. The super liens were made possible through an ordinance the Collier County Commission passed in 2008. These may leave banks unpaid on a second mortgage and thus can be perceived as punitive to financial institutions.

Marco Island code officials weren't aware of the details and success of Collier County's program, Marco's Chief of Code Enforcement Eric Wardle said recently.

"Well, I wish they would have called us," he said and then chuckled.