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Q & A: Dealing With Deadbeats

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By JAY ROMANO

Q.

I am the president of a 29-unit condo near Pennsylvania Station. The owners of one apartment have not paid their common charges for five years. They refuse to respond to any correspondence we send. The apartment is rented to tenants who claim they have no contact with the owners; they simply deposit the rent in the owners' bank account. What can we do?

A.

Adam Leitman Bailey, a Manhattan real estate lawyer, said the condominium board should review the bylaws to determine how notice should be given to place a lien on the delinquent owners' apartment.

"The state's Real Property Law provides a condominium board with the power to place a lien against a condominium unit to collect unpaid common charges," **Mr. Bailey** said. "After filing a lien for any unpaid common charges, the condominium can then file a foreclosure proceeding against the owner if the lien has not been paid."

The foreclosure proceeding, he said, must be filed in State Supreme Court and is similar to the proceeding a bank would file to collect an unpaid mortgage.

"Upon the successful prosecution of a foreclosure action, the unpaid lien would be paid from the proceeds of the foreclosure sale," **Mr. Bailey** said, adding that the bylaws may allow the condominium to collect legal fees from the sale of the unit.

He added that a mortgage lien would take priority over the condominium's lien, so if the foreclosure sale does not produce enough money to pay off both liens, the condominium will get only what money is left, if any.

JAY ROMANO