

GALT MILE NEWS

FEBRUARY 2012

THE OFFICIAL NEWSLETTER OF THE GMCA

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GET THE 411 FOR GALT MILE EMERGENCIES

Dammit...Where's the Water?

By 8 PM on Christmas Eve, board members in Galt Mile associations began fielding complaints from neighbors asking why water was suddenly unavailable in their homes. Along with the normal concern and curiosity were recriminations by the usual suspects - every building's small but vocal group of goofballs who blamed their downstairs neighbor, the building manager, global warming, NAFTA or the United Nations. An ambitious Southpoint director hit the street, visiting neighboring buildings to confirm that the problem wasn't unique to his association. Playa del Mar residents called friends at Regency Tower and asked if they also lacked water. Security personnel in virtually every building spent from 8 PM to midnight assuring unit owners that calling a plumber wouldn't help.

A deteriorating 42-inch water main at N.E. 38th Street between N.E. 5th and N.E. 6th Avenues burst, plummeting a quarter of a million county residents into chaos. Tasked with spinning a 12-foot geyser that transformed 38th Street into a block-long, 4-inch deep wading pool, City Public Information Specialist Matt Little conjectured that a major water distribution line failed. For several hours, Fort Lauderdale water customers, as well as those in Lauderdale-by-the-Sea, Oakland Park, Port Everglades Authority, the Village of Sea Ranch Lakes, Wilton Manors and sections of Davie and Tamarac combed local grocery stores for bottled water while making futile attempts to contact City and County Customer Service Centers for information.

Fort Lauderdale Mayor Jack Seiler learned about the water problem from a text message shortly after 8 PM, when he headed to the break site. By 9 PM, City Manager Lee Feldman drafted 10 off-duty City operators to answer frantic calls to a hotline system frozen by overload. A half hour later, automated telephone notifications began reaching local residents. Feldman lamented the City's "inability to remotely update the city's website over the holiday weekend." Since websites can be updated from a payphone in Surinam, Feldman should have little trouble correcting this communication gaffe.

The Broward Sheriff's Office was forced to issue an emergency request that residents not burden their 911 emergency call service with water problems. Mike Jachles of BSO explained "People shouldn't call 911 if their water is out...unless their house is on fire." After 9 PM, in the absence of any official feedback, residents who emailed the neighborhood association were referred to Twitter, where local residents from Oakland Park, the Galt Mile, Lauderdale-by-the-Sea, Coral Ridge and other affected areas sent a steady stream of updates about the emergency, including information about its source and repair progress. Shortly after midnight, the GMCA sent member associations a brief summary of unfolding events.

By 11:30 PM, a Public Works crew supervised by Director Al Carbon successfully circumvented the ruptured water main, thereby rebuilding

system pressure at the plant. How did they fix a huge water main in a few hours? Since Carbon knew that the old main was on its last legs, a redundant pipe that was installed last year a few blocks north was recently put into service. Public Works only had to close four valves that fed the collapsed main to cure the problem. Carbon said "We were planning to take it out of service." When service was restored, the City's Public Works Department and the Broward County Public Health Department commiserated about the potential for a contaminant-driven health crisis. The two agencies jointly issued a Precautionary Boil Water Notice for affected residents. The brief advisory stated "All tap water used for drinking, brushing teeth, cooking or other consumption should be brought to a rapid boil for at least one minute. Tap water is okay to use as is for washing and bathing. The Precautionary Boil Water Notice will be in effect until further notice."

During the next two days, municipal and county scientists tested the water for bacterial and inorganic pollutants. Based on the lab results, they issued another joint advisory on December 26th, officially lifting the boil water notice. An estimated 250,000 Broward residents breathed easy. In view of the Christmas Eve mass confusion, the City is recommending enrolment in the free emergency notification services offered by Fort Lauderdale.

CodeRED and City News Alerts

Residents and businesses in the City of Fort Lauderdale are eligible to receive emergency notifications via two free programs called "CodeRED" and "City News Alerts". CodeRED is a high-speed telephone communication service by which the City sends emergency notifications to registered phone numbers. In event of an emergency, the system will call and deliver a recorded message to a live person, cell phone, answering machine or voicemail. Individuals who already registered for the service can update their phone number or add a cell phone number by re-registering - a 30 second process. A variation of this service was used by the City when the boil water notice was lifted. Affected residents received a telephone call with a recorded message explaining that their water was safe for consumption.

The CodeRED service is provided by an outfit called Emergency Communications Network (ECN). The company built an Emergency Telephone Network (ETN) database of citizen contact information for use in critical situations. When you register to participate in the CodeRED notification service, your contact details are added to a nationwide database accessed exclusively for critical community alerts and emergency situations. When triggered by a client community like Fort Lauderdale, ECN allocates resources to match local telephone infrastructure, facilitating a massive dialing system capable of transmitting millions of messages per hour.

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THE FINANCIAL CRISIS:

A LEGAL UNDERSTANDING OF AN ASSOCIATION'S OPTIONS

BY MARCY L. KRAVIT, CMCA, AMS, PCAM, GENERAL MANAGER OF THE GALLEON. COMMENTARY BY: LISA MAGILL, ESQ., BECKER & POLIAKOFF

***Preface – Welcome to Budget Season on the Galt Mile. In November, most Galt Mile Associations offer budget presentations to their membership. While some boards vote to enact the draft budget during the same meeting, most reconvene in December for their approval vote. Because the economic downturn pummeled associations with unprecedented financial pitfalls, this year's budgets are permeated with new or rare line items, unfamiliar legal and/or fiscal terminology and planning choices that are clear as mud to many association members.**

Since the housing train wreck, Community Association Managers have had to expand their management skills to cope with the budgetary impact of regular and strategic foreclosures, unit owner delinquencies and statutory loopholes exploited by lenders to dodge assessment obligations. They must also keep abreast of legislative survival tools, judicial decisions that alter the legal standing of associations, lenders and unit owners, shifting mortgage eligibility regulations and other factors that squeeze cash flow and pressure property values.

Hoping to dispel confusion about the new fiscal burdens on association budgets, Galleon General Manager Marcy Kravit emailed an offer to the neighborhood association. In her November 23rd message, she announced "I drafted some questions related to the financial crisis to assist condos in understanding their options and the language related to this topic. Lisa Magill answered the questions in great detail. Her contact info is below. I hope that you find this useful." Their collaborative Q & A will help clarify how the evolving legal landscape affects our financial options. Read on... – [editor]"

Community Association Managers have been faced with many challenges managing their associations in this economic climate as they experience abandoned properties, unoccupied units, and increases in delinquencies, financial deficits, delays in the foreclosure process and bank delays in taking title. Managers are required to provide options, find innovative ways and make recommendations regarding this overwhelming situation. The association has a fiduciary responsibility to maintain the property and all owners are responsible in sharing the common expenses.

Condominium associations have argued that their right to collect past due assessments deserves priority over the first mortgage because the association uses those assessments to maintain the condominium property, in this manner, therefore protecting the collateral of the first mortgage holders.

In addition, associations have argued that it is unfair for the first mortgagee to take all of the sale proceeds leaving the remaining owners to make up for the lost assessments and only collect 12 months or 1% - whichever is less. Delinquent owners continue to occupy their units and have access and use of all common areas and amenities [sic - actually, there is already a statutory remedy for this in s. 718.303(3)(a), Florida Statutes - editor].

In the past, associations were reluctant to foreclose on a unit that's worth less than the owner's mortgage, however, now more than ever, associations are moving on the process due to the delay in the courts system. Banks are delaying foreclosure proceedings, owners are filing for bankruptcies, property values and sales are plummeting. Foreclosures are taking up to 2 years because the courts are backed up with handling these actions.

A couple of years ago, a Miami-Dade County judge ruled that associations can file a single "blanket" receivership order to go after multiple unit owners and their rent payments to cover past due fees. Blanket receiverships allow for the appointment of a court-approved representative to collect all of the rent proceeds and submit it to the association.

Recently, The Miami Herald reported another option to obtain funds under a process called a reverse foreclosure. The association files its own foreclosure notice and takes title, which is its right after the owner stops paying maintenance fees. The association can't sell because of the bank's lien. But it can relinquish its claim on the property in court and ask the judge to give the title back to the bank. Then the bank has to pay the fees.

Although reverse foreclosure is a new concept, it could become another alternative. According to The Miami Herald, in a recent survey, 60 percent of Florida condo and homeowner associations reported that half of their units were two months behind in paying maintenance fees. When owners discon-

tinue paying their mortgage, they customarily discontinue paying their maintenance fees. As long as a foreclosure is pending - the foreclosure process can be delayed by the bank and the amount of the unpaid maintenance fees increase.

A reverse foreclosure will force banks to pay association fees and hold them accountable when the unit owner defaults. It forces the bank to take title. Banks are not liable for assessments until they take title. There is very little incentive for a bank to complete its foreclosure and take title until it has a buyer. These are desperate times and banks are in business to protect their interests. In most cases, the property is worth less than the outstanding mortgage. In other words, they are "upside down".

In a reverse foreclosure the association takes title after filing for foreclosure. The association cannot sell because of the bank's lien, however it can relinquish its claim on the property in court and request that the judge reissue title back to the bank which in turn will force the bank to pay the maintenance fees.

It is important to take a proactive approach and obtain a full understanding of your association's options and remedies in addressing these issues. Condominium Boards and Managers are becoming more aggressive in reviewing all options. It is vital to consult with your association attorney regarding which approach is best for your association.

Lisa A. Magill is a Shareholder in the Firm Becker and Poliakoff's Community Association Law Practice Group and is a member of the Board of Directors of the Community Associations Institute (CAI) where she has been a featured speaker on issues such as co-ownership housing laws, covenant enforcement, and association operations for Associations' Board members, managers and other professionals in this field. In explaining her perspective regarding this subject, I have asked Lisa Magill, Esq. to provide her expertise and opinion in answering the following questions:

1. What is your opinion of the reverse foreclosure process?

The term "reverse foreclosure" is somewhat of a misnomer, but the favorable Order granted in the Keys Gate case demonstrates that community associations shouldn't simply give up solely because a property is subject to a mortgage foreclosure proceeding. First, we need to define the concept. The community association must own the property to employ a "reverse foreclosure" process. That generally means the association filed its claim of lien, filed and completed its foreclosure lawsuit and obtained a Certificate of Title. As we know from our own experience and from the report issued by the Task Force appointed by the Supreme Court of Florida, the "enormous increase in foreclosure filings has overwhelmed" the Court system creating the worst "traffic jam" imaginable - a traffic jam during rush hour, when one lane is closed for construction and its raining. Nonetheless, associations need to press on and if faced with this scenario, asking the Court to grant summary judgment and to schedule a foreclosure sale is one way to find the light at the end of the tunnel.

While I am not familiar with all of the facts of the Keys Gate case, there is no reason any association should wait a year before taking action in a bank's foreclosure case. Associations have many options available to them to move the bank's case along. Among other things: they can file a Notice that the case is ready for trial (if all parties were served), they can ask the Court for a case management conference, they can consent and stipulate to a Final Order of Foreclosure or can make arrangements to give the bank a quit-claim deed in lieu of foreclosure (if the bank accepts the deed, which is another issue), they can file Motions to Compel Prosecution as well. Of course, if the property is occupied by a tenant, they can seek income from the tenancy as permitted by law.

The Order granted by the Miami-Dade Circuit Court is great for this community association. With a little modification, the tactic may benefit other associations that have already acquired title to a property or properties. For various reasons I believe it is more beneficial to ask the Court to

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COMMISSIONER BRUCE ROBERTS

JANUARY 2012

In our December Newsletter, we discussed the very positive current status of Fort Lauderdale's fiscal affairs. I would like to take this opportunity to expound on certain aspects of the budget, which further demonstrates our commitment to be fiscally sound without sacrificing vital City services.

Pension Reform Using the same disciplined approach that has produced the results described in our December Newsletter, this City Commission confronted pension reform. Funding pensions have a direct effect on current budgets and a long-term impact on financial flexibility and sustainability. The City of Fort Lauderdale has already taken steps to reduce pension costs. The general employees pension plan is now a defined contribution 401(a) plan. We have reduced the City's contribution rate from 32.75% to 9% for new employees. As a result, it is projected to save \$100 million over the next 30 years.

The City Commission is also examining the implementation of additional innovative strategies to control pension costs, reduce the financial burden on taxpayers, and generate millions of dollars in added savings. One of those strategies involves the issuance of pension obligation bonds to manage costs. This idea would allow us to borrow funds at a low interest rate to pay off pension debt. These funds would then be invested in the pension plan to generate a higher rate of return. The difference between the interest rate on the borrowed money and the rate of return generated by the plan could result in a significant economic benefit to the City. For example, if the City wanted to pay off 75% of its current pension liability, we could issue pension obligation bonds to borrow approximately \$200 million at an estimated interest rate of 4.75%. These funds would then be invested in the pension plan, which is projected by the actuary to earn a 7.75% rate of return. The difference between the low interest rate on the loan (4.75%) and the plan's higher rate of return (7.75%) could generate up to \$6 million in pension costs savings in the first year alone; and over a 20-year period, the City could reduce its pension costs by more than \$60 million. In addition to eliminating a signifi-

cant pension liability, the bonds would provide the City with a consistent, fixed amount to budget on an annual basis to cover the debt service on the borrowed money. I will keep you advised on the status of this particular strategy.

The City is also reducing pension costs by changing the timing of our annual required pension fund contribution. In the past, the City always made the payment in October; this has resulted in charging nine months of interest on the money owed at a rate of 7.75%. Several months ago, the Commission approved a plan to borrow the money at a low interest rate and make the payment in December. By doing so, we will pay off the loan in October at an interest rate of 1.62% on the borrowed money as opposed to paying a 7.75% interest rate on the money owed. The difference between the two interest rates means the City will save nearly \$1.5 million in Fiscal Year 2012.

In addition, it is important to note that our new police officers and fire/rescue staff will now contribute 8.5% of salary to the Police and Fire Pension Plan. Previously, employee contribution was 7%. You may recall that our Governor and Legislators were pleased just to have employees begin contributing 3% to the State Plan. Furthermore, the City plan is computed on base pay and does not include leave time and does not contain a COLA. In order to maximize the benefits of the Deferred Retirement Option Plan (DROP), employees must now work two more years; furthermore, the return on the DROP has been reduced from a guaranteed 7.75% to a range of 3% to 6%, which is based on the plan's performance.

These are just a few of the methods the City is employing as part of its overall plan to manage, control and reduce pension costs. We recognize the need for pension reform is great. As such, we have made, and will continue to make, meaningful changes to our retirement systems in order to ensure their long-term sustainability and provide financial relief to our taxpayers.

Economy The economic future for Fort Lauderdale is also bright. When it comes to tourism, Fort Lauderdale remains a top destination for domestic and international visitors. We have seen 25 consecutive months of increased tourism. We are on a pace to host more than 11 million visitors who will spend in excess of \$8 billion at our hotels, restaurants, stores and businesses. Hotel occupancy continues to hover near 75% for the year, which is the highest in the state and 27% higher than the national average. Cruise traffic at Port Everglades seems to constantly be creating and then breaking records for total passengers, and Fort Lauderdale-Hollywood International Airport expects to see a 7% overall increase in passenger traffic. When you consider that approximately 50% of the "bed tax" collected by the County is generated from Fort Lauderdale alone, the picture is even more focused on our great City.

Fort Lauderdale now ranks as the city with the lowest tourist taxes among the top 50 U.S. travel destinations. According to a recent analysis by the Global Business Travel Association, the typical visitor to Fort Lauderdale will pay up to 80% less in taxes than a tourist in Chicago, New York, Boston or Seattle. Hosting the nation's lowest tourist taxes should continue to provide a significant competitive advantage for attracting visitors, corporate and business travelers, meetings, events and conventions. This Commission will continue its endeavors to support tourism related initiatives.

The housing sector is also showing signs of reviving. According to Realtor.com, Fort Lauderdale ranks 5th among the nation's top 10 metro areas where housing conditions are on the upswing. Also, a recent article in the "Sun-Sentinel" reported that of Florida's 19 metro areas, Broward was one of only two areas posting annual price increases for home sales. In 2011, the number of homes sold in Broward increased by 11% compared to sales in 2010. This marks the greatest number of sales since 2004. As an aside, my current campaign for re-election on March 13th has been endorsed by the Realtor Association of Greater Fort Lauderdale. While still too high, the jobless rate in Broward continues to decline and now stands at 8.6%. Fort Lauderdale/Broward County is leading the South Florida area in this recovery.

Pre-Agenda Meetings reminder that our meetings are always on the Monday before a Commission Meeting (unless that Monday is a holiday). The agenda is discussed, as well as any other topics that may arise. The first Monday of the month is at the Beach Community Center, and the third Monday of the month is at Imperial Point Hospital (south entrance) – always at 6 p.m. Please call the office if you have any questions or need more information.

Office Contact Robbi Uptegrove – 954-828-5033; email: ruptegrove@fortlauderdale.gov. In addition to hosting the pre-agenda meetings twice a month, I am also available to attend your HOA meetings to update your neighborhood on what is going on in the City as well as answer any questions/concerns you may have. Please contact Robbi to schedule. If you would like to be on our email list to receive information, notifications or general information, please email us and you will be added.

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I encourage you to visit our website at www.fortlauderdale.gov/roberts to review previous newsletters. As always, I look forward to hearing from you and want to continue to serve you and our great community.

COMMENTS

"In his January 2012 newsletter, District 1 City Commissioner Bruce Roberts flouted a long observed political taboo when he addressed municipal pension benefits. For politicians with a functional survival instinct, exploring the netherworld of public employee pensions is ordinarily a recipe for disaster. Nearby municipalities like Miami, Pembroke Pines, St. Petersburg, and Hollywood, where municipal pensions account for more than half of the total payroll, are struggling to avoid the pension-driven fiscal black hole that sucked the life out of Vallejo, California in 2008, Prichard, Alabama in 2009 and Central Falls, Rhode Island last month.

When South Florida cities were flush with property tax revenues, city commissioners and town council persons plied politically powerful employee unions with lucrative benefit windfalls. When negotiations were concluded between local politicians and union representatives, both sides achieved their primary objectives. Union negotiators won significant embellishments to employee benefit packages while politicians won the campaign support of Police and Fire unions, AFSCME, SEIU and the Teamsters. In the following months, confused taxpayers who were typically denied a seat at the table were relegated to watching disjointed participant sound bites on YouTube.

The problem was exacerbated by Tallahassee. State law makers trying to score points with the same powerful labor constituencies filed bills that forced municipalities to enrich already lavish employee pensions. A 1999 law governing a tax on property insurance premiums, a primary funding source for police (s.185.35, F.S.) and fire (s.175.351, F.S.) pensions, requires that the annually increasing proceeds solely boost retirees' benefits, not help pay for their existing plans. This statutory Twinkie has forced cities to spend an additional \$460 million to sweeten benefits instead of shoring up currently unsustainable pension obligations.

A few years ago, Fort Lauderdale began taking steps to rein in the growth rate of pension obligations that skyrocketed from \$10.6 million a decade ago to \$52.2 million last year. When a 2011 Sun Sentinel article characterized exploding pension costs as a "tickling time bomb" for local governments, an openly critical Mayor Jack Seiler countered with his perspective of this political tripping hazard.

The original article aired the findings of a pensions study by researchers at the non-profit, non-partisan LeRoy Collins Institute at FSU's College of Social Sciences and Public Policy. Entitled "Trouble Ahead: Florida Local Governments and Retirement Obliga-

tions," the study concludes that employee retirement costs in all large municipalities are underfunded. It also reveals that both Orlando and Ft. Lauderdale were burdened by pension fund shortfalls amounting to 30 percent.

Seiler insisted that the Fort Lauderdale General Employees Retirement System (GERS) and the Police and Firefighters Retirement System (FLPFP) were not 30% underfunded. Flipping the script, he explained that the two systems were, in fact, "70% prefunded." The remainder, the 30% currently unavailable to pay benefits, is referred to as an "Unfunded Actuarial Accrued Liability" or UAAL. Seiler drew a parallel between how this outstanding debt is ordinarily addressed and the mechanism used to pay down a home mortgage.

In both cases, debt is amortized over an extended period of time to enhance affordability. While the pension fund's uncollected 30% rolls in over the next 20 to 30 years, the City draws from the 70% cushion to address current and upcoming retirement expenses. Seiler further asserts that "the health of a public pension plan is not determined by the UAAL," pointing out that when a flattened stock market and/or alternative investment vehicles rebound, the increased income helps pay the obligation, thereby reducing the UAAL. Seiler concludes that no emergency measures are necessary because the debt "is being paid down each year in the same way millions of Americans pay down their mortgages."

The problem is this. When a mortgage isn't paid, the lender is made whole by foreclosing the property and liquidating secured assets. If the stock market plummets and suddenly deflated investments fail to diminish the city's \$328 million UAAL, the pension fund is made whole by draining blood from the necks of taxpayers.

The reforms described by Commissioner Roberts have enabled the City to stave off a declaration of "financial urgency," a statutory safety net recently invoked by Pembroke Pines, Miami and Hollywood that empowers a jurisdiction facing fiscal implosion to unilaterally redraft existing contract agreements after a 14-day emergency negotiating period. While Pembroke Pines and Miami immediately began tailoring their employee pensions, since Hollywood has a local ordinance that requires the voter permission, Hollywood Mayor Peter Bober had to wait for the green light on Sept. 13, 2011 before scrubbing up for surgery.

Of the measures taken to weather the City's unsustainable pension obligations, the key-stone was renegotiating the financial underpinnings of the GERS fund by applying formulas for new hires based on "Defined Contributions" (similar to a 401(k) plan), instead of "Defined Benefits". While negotiators for the Police and Firefighters unions made some palpable sacrifices, their "Defined Benefits" golden goose was left largely intact. Even if the City is able to resolve the sustainability pitfalls of the FLPFP system, much of the long-term savings would derive from its applicability to new hires.

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Your CITY COMMISSIONER **Bruce ROBERTS**

continues to achieve results for our residents...

Since elected, No increase in our operating millage rate of 4.119 or fire assessment fee. Fort Lauderdale is now rated as having the second lowest millage rate in Florida's top 25 largest cities.

Commissioner Roberts has advocated for Galt Ocean Mile projects including the Greenway Program; A1A enhancements and expansion of the Sun Trolley. He passed a stricter ordinance to strengthen state regulations to reduce pill mills and pain clinics in our city.

Finalized public safety contract negotiations with strict pension reform which is looked at as a model for other communities. Commissioner Roberts has recently been appointed to work with the county and cities on regionalizing a 911 Dispatch Service.

A Commissioner All of District 1 Can Be Proud Of!
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Since the service cannot ordinarily penetrate privacy locks, residents should either turn off the privacy lock feature during emergencies, enter 954-828-8000 on their "safe list" of phone numbers, or enter an alternative cell phone number when registering for the service.

The City also offers "City News Alerts", a communication service that enables the City to send mass emergency notifications by email to registered subscribers. During an emergency, the system will deliver essential information to registered email addresses. In addition to emergency notifications, email subscribers can additionally register to receive City Commission Meeting Agendas, Notices of Intent to Award, and information about public auctions.

Fort Lauderdale residents and businesses may register for both CodeRED and City News Alerts on the City's website or by calling the City of Fort Lauderdale 24-hour Customer Service Center at 954-828-8000. To sign up for either or both services online, go to http://www.fortlauderdale.gov/code_red.htm. You can unsubscribe, review or change your subscription at will. A minor detail may be of interest to prospective registrants.

Chapter 119.011(12), Florida Statutes, defines Public Records as "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Since Florida law requires the City to treat email addresses as public records, paranoid web surfers can shield their email address from a public records request by signing up for the CodeRED service by telephone. Also, if your neighbors learn that you subscribe to these services, the same bozos that called 911 on Christmas Eve may call you!

schedule a sale, instead of asking the Court to issue a Certificate of Title as a result of the Motion. In this day and age where the property may be worth half the amount of the outstanding mortgage, we have seen banks allow third-party purchasers (generally investors but sometimes end users) to take title at the judicial sale even if they bid far less than the amount owed to the bank. The bank may make a business decision that since the property is only worth the appraised amount, it is more cost-effective for it to avoid any expenses of ownership, maintenance, repair, marketing for sale and the like. If that happens (and it has happened a number of times to our clients), the association is entitled to full recovery and not limited to the 6/12 months or 1% that would otherwise be paid.

Again, I cannot stress enough that every case must be evaluated on its own facts and circumstances. Community leaders should regularly speak to or meet with counsel to discuss the various options in each case and likelihood of success of each option presented.

2. Please explain what a Motion to Compel is and how and when should the association consider this process?

Many are under the impression that filing a Motion to Compel is no longer an option as a result of the U.S. Bank v. Tadmor case, which is not true at all. My Firm has been very successful in obtaining sanctions against lenders that have not diligently pursued foreclosure lawsuits. In fact, we have obtained two (2) recent Orders in Manatee County, Florida imposing sanctions - not only against the bank, but against the bank's attorneys as well!

Again, we have to define the term "Motion to Compel" - compel what? The Tadmor case held (correctly so) that the Court cannot compel the bank to pay assessments, but that is not the relief always sought. The Association can certainly ask the Court to compel the bank to prosecute its case in a reasonably diligent manner and it is certainly appropriate for the Court to establish reasonable deadlines for certain actions. It is not appropriate to ask for sanctions in the first Motion to Compel or in a Motion to Set a Case Management Conference. The facts in the Tadmor case did not justify sanctions - but the facts and the lack of action on the part of the bank and/or the bank's attorneys, in many other cases do warrant sanctions.

3. Can an association take a unit owner to small claims court for unpaid assessments and if so, when do you suggest doing so?

The association can certainly file an action for monetary damages (money judgment) instead of pursuing a foreclosure - which relief is available in the statutes and practically all of the governing documents I have read over the years. In fact, most filings include both types of relief (Foreclosure in Count I and Count II for Money Judgment). The type of court (circuit, county, small claims) depends on the amount sought to recover. Small claims court cases are limited to \$5,000. County court cases are designed for claims that are less than \$15,000 and Circuit court cases are for claims that exceed \$15,000.

While I may recommend from time to time (depending on the facts of the case) pursuing a deficiency judgment in Circuit/County/Small Claims court (as appropriate), I do not recommend pursuing a money judgment instead of foreclosure to collect assessments if the property owner is still in possession. If an association obtains a money judgment, the owner is still entitled to reside in the property which means assessments continue to accrue. The association would have to file another lawsuit to obtain foreclosure (or money judgment) for any obligations that became due after the date of the judgment and collection is not a simple or easy process under most circumstances. If the property is homestead property, the association doesn't have any right to attach proceeds on the sale if the property is sold and funds used for another homestead (if there is a profit from the sale). Post-judgment collection efforts can be expensive and time consuming.

On the other hand, many associations are thinking short-term instead of long-term when they decide to forgo pursuing a money judgment for the balance between what a lender pays if it takes title as a result of foreclosure and the outstanding obligations on the account. Yes, there are costs involved. If the association doesn't have a lawsuit pending, it needs to file a lawsuit. There are attorneys fees, filing fees, costs associated with service of process, etc. If the association already has its lawsuit pending, most of those costs have already been absorbed - so why not wait for the bank to foreclose (and pay its statutory obligation), then continue to pursue the balance against the former owner? A judgment is recorded in the county and with the State's registry; it is initially valid for 10 years

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Continued on page 10

and can be renewed for another 10 years. During that time if the debtor desires to buy another property, obtain financing for purchase of a vehicle, college, etc., the judgment will appear. While the debtor/former owner may not have sufficient cash-flow right now, who knows what the future will bring? If the debtor has significant assets in another state, the association can even take the extra step of domesticating the judgment in another state and pursue collection efforts there.

4. Can an association use reserve funds to subsidize a shortfall?

Reserve funds held by condominium associations may only be used for the purpose or purposes for which the funds are collected, unless the members vote to authorize the use for another purpose. The membership may vote to authorize the board to transfer the reserve funds from the reserve account to the operating account to cover shortfalls, but the board does not have the authority to make this decision on its own. The same is true with respect to statutory reserve funds held by homeowners' associations.

Some associations do conduct a membership vote on a yearly basis to pre-authorize "borrowing" money from the reserve account or accounts to cover temporary shortfalls. Others obtain lines of credit to prepare for unexpected expenses or shortfalls.

What's even worse is that reserve transfers must be made in full each month or quarter, regardless of whether the owners pay on time. I have yet to have any clients cited for that violation thankfully.

5. What is your opinion regarding financial organizations that are offering to pay maintenance fees through cash advances to recover shortfalls?

Depends. You have to first analyze whether the association (through its Board of Directors) has the authority to enter into those types of agreements. A "cash advance" is basically alone. Not every board has the authority to decide whether to borrow funds. If your association already borrowed money from a bank it cannot give the cash advance company first lien on assessments as collateral for the loan. There are several business considerations—What is the cost of this cash advance? What is the association giving up? Will it cost more to the association in the end? If it has to give up late fees and interest? There are many unanswered questions that require thought and analysis. My advice? Have the board weigh the short-term benefit against the long-term consequences before taking any action and be sure to consult with your attorney before signing.

6. When should an association take title to units from delinquent owners and rent them out to tenants? What happens once the bank initiates foreclosure?

If the association acquires title as a result of its foreclosure and the property is capable of occupancy, then any income derived from renting or leasing the property can certainly help with shortfalls. Many associations are even willing to incur some expenses to maintain or repair the property for occupancy purposes - the \$1,000 spent on a cleaning crew and new paint can easily be recovered in one or two months.

Unfortunately, it seems that every 'silver lining' has a cloud inside. There are a number of considerations to take into account. What is the cost to market the property? Do the governing documents allow short-term or month-to-month rentals? Will "good" tenants want to move into a property knowing that it may be subject to foreclosure proceedings and then have to move on relatively short notice*? Are there any problems in the unit that may lead to liability exposure (exposure to damages to persons or property as a result of the condition of the unit)? Is the association going to obtain insurance (I would) which is now required by Florida Law for condominium owners?

7. What affect on the association does it have if a unit owner files for Chapter 13 Bankruptcy?

The filing of the Bankruptcy Petition operates as an automatic stay and prohibits creditors from proceeding against the Debtor or against any property of the Debtor. The Association cannot move forward with filing a Claim of Lien or a foreclosure lawsuit since any action against the Debtor or against the property of the Debtor would be in violation of the Automatic Stay. If the property is homestead property, the Association may want to consider filing a Motion for Relief from Stay or a Motion for Administrative Expense in order to require the Debtor to make the post petition payments due to the Association during the pendency of the case. An owner filing bankruptcy should not be viewed as the time to give up - the Board members need to discuss the particular facts and circumstances of the case with counsel to decide the appropriate strategy and course of action, especially if the Debtor is surrendering the property in connection with the bankruptcy.

8. When should an association request that the court appoint a blanket receiver?

The use of a blanket rent receiver has been very effective, but now that the statutes allow the associations to collect rent prior to filing any action, a receiver shouldn't be necessary.

Continued on page 11

THE GALT MILE NEWS

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9. Can an association turn over the uncollected fees to a Collection Agency and have an effect on a unit owner's credit report?

The Board of Directors may enter into a contract with a collection agency to collect outstanding debt, unless that action is prohibited by the governing documents for some reason. It is important that both the contract and collection agency practices comply with applicable federal and state laws. The collection agency is entitled to take all legal actions to collect the debt and many report the debt to credit agencies.

An association, as a creditor, may ostensibly report delinquencies directly to consumer reporting agencies. I am not familiar with all of the rules, procedures and penalties set forth in the federal Fair Credit Reporting Act (FCRA), but generally understand that anyone that furnishes information to a credit reporting agency must comply with federal and state laws and procedures regarding verification of the debt, updating the information, disclosing disputes or protests, etc. These responsibilities are found in Section 623 of the FCRA, 15 U.S.C. 1681s-2. State law may impose additional requirements. All furnishers of information to credit reporting agencies must become familiar with the applicable laws and should understand the penalties or consequences of their actions. The impact of delinquencies, shortfalls in cash flow and budget cuts have created a detriment in governing community associations and providing owners the basic services that they bought into. This situation has caused much added stress and financial pain to Managers and volunteer Board Members. Associations must continue to tighten their collection policies, take a proactive approach, use common sense and be practical in making sure they have utilized all of their options in order to collect the necessary funds to operate efficiently and effectively.

** A gem in Becker & Poliakoff's legal toolbox, Lisa Magill specializes in Community Association Law and Disaster Recovery. Magill edits the firm's "Community Update," a monthly Community Association client newsletter and the "Florida Condo & HOA Legal Blog," a popular web-based forum that examines issues affecting common interest communities.*

Continued on page 14



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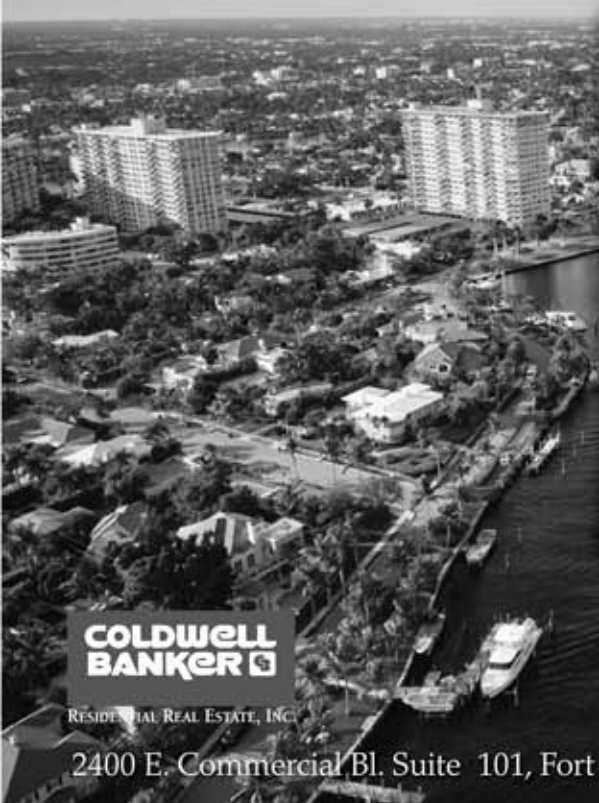
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12 Urban Gourmet Market
1201 E. Las Olas Blvd.
9 a.m. to 4 p.m.
Info.: 954-462-4166

13

Citizen's Crime Alert
City Hall, 7 p.m.
Info.: 954-828-5377

14

BINGO
Galt Towers Social Room
(4250 Galt Ocean Drive)
7:30 p.m.
Info.: Cyndi Songer: 954-563-7268

15

BINGO
Regency South Party Room
7 p.m.
Info.: Bob Pearlman: 954-547-4063

19 Urban Gourmet Market
1201 E. Las Olas Blvd.
9 a.m. to 4 p.m.
Info.: 954-462-4166

20

President's Day

Commissioner Bruce Roberts:
Pre-Agenda Meeting
Beach Community Center, 6 p.m.

21

BINGO
Galt Towers Social Room
(4250 Galt Ocean Drive)
7:30 p.m.
Info.: Cyndi Songer: 954-563-7268

22

BINGO
Regency South Party Room
7 p.m.
Info.: Bob Pearlman: 954-547-4063

A1A Marathon
Starts at the Museum of Discovery
6 a.m.
Info.: www.a1amarathon.com/

Fort Lauderdale City Commission Meeting
City Hall, 6 p.m.

Taste of the Beach, 2012
4501 N Ocean Dr, LBTS
6 to 9 p.m., \$30 admission
Info.: 954-776-1000

26 Urban Gourmet Market
1201 E. Las Olas Blvd.
9 a.m. to 4 p.m.
Info.: 954-462-4166

27

Dick Fox's Golden Boys: Frankie Avalon,
Fabian, Bobby Rydell
Hard Rock Live, 8 p.m.
Tix.: www.ticketmaster.com

28

BINGO
Galt Towers Social Room
(4250 Galt Ocean Drive)
7:30 p.m.
Info.: Cyndi Songer: 954-563-7268

29

BINGO
Regency South Party Room
7 p.m.
Info.: Bob Pearlman: 954-547-4063

First Ladies Tea
Fairchild Tropical Garden, 3 p.m.
Reservations.: 305-663-8059

Billy Elliot: The Musical
(Through 3/11)
Broward Center for the Performing Arts
Tix.: 954-462-0222

4 Urban Gourmet Market
1201 E. Las Olas Blvd.
9 a.m. to 4 p.m.
Info.: 954-462-4166

5

Commissioner Bruce Roberts:
Pre-Agenda Meeting
Beach Community Center, 6 p.m.

6

BINGO
Galt Towers Social Room
(4250 Galt Ocean Drive)
7:30 p.m.
Info.: Cyndi Songer: 954-563-7268

7

BINGO
Regency South Party Room
7 p.m.
Info.: Bob Pearlman: 954-547-4063

Sunday Jazz Brunch
Riverwalk, Downtown FL
11 a.m. to 2 p.m.
Info.: 954-828-5985

Business Education Seminar Series:
Business Accounting
Holiday Park Social Center, 6 to 8 p.m.
Info.: 954-828-4347

11 Urban Gourmet Market
1201 E. Las Olas Blvd.
9 a.m. to 4 p.m.
Info.: 954-462-4166

12

Citizen's Crime Alert
City Hall, 7 p.m.
Info.: 954-828-5377

13

BINGO
Galt Towers Social Room
(4250 Galt Ocean Drive)
7:30 p.m.
Info.: Cyndi Songer: 954-563-7268

14

BINGO
Regency South Party Room
7 p.m.
Info.: Bob Pearlman: 954-547-4063

Daylight Saving Time Starts

Community Appearance Board Meeting
City Hall, 5:30 to 6:30 p.m.

ADDITIONAL EVENTS

FEBRUARY 11 - 12: 38th Annual South Florida Depression Glass Show, Emma Lou Olsen Civic Center, Pompano, Info.: 305-884-0335

FEBRUARY 14: Patrizio Buanne, Broward Center for the Performing Arts, 8 p.m., Tix.: 954-462-0222

FEBRUARY 14: Romance in the Gardens, Flamingo Gardens, 5 to 7 p.m., Tix.: 954-473-2955

FEBRUARY 14: Andrea Bocelli, BankAtlantic Center, Tix.: 954-835-7000

FEBRUARY 16: Artwalk Las Olas, Las Olas Blvd., 5 to 9 p.m., Info.: 954-258-8382

FEBRUARY 17 - 21: Palm Beach Jewelry, Art & Antique Show, Palm Beach County Convention Center, Info.: 561-822-5440

FEBRUARY 18 - 19: Riverwalk Blues & Music Festival, Bubber Park, Info.: 954-399-BLUE

FEBRUARY 18 - 19: Buckler's Craft Fair, S. Florida Fairgrounds in West Palm, Info.: 386-860-0092

FEB/MAR

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UPCOMING EVENTS IN OUR AREA

16 BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr)
7 p.m.
\$5/person for 3 boards

Kelly Clarkson
Hard Rock Live
Tix.: www.ticketmaster.com

23 BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

Diana Ross
Hard Rock Live
8 p.m.
Tix.: www.ticketmaster.com

1 BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

Fairchild and The American Orchid Society
Fairchild Tropical Garden, 7 p.m.
Info.: www.fairchildgarden.org

8 Moonlight Tour
Fairchild Tropical Garden
6:30 to 9 p.m.
Info.: www.fairchildgarden.org

BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr)
7 p.m.
\$5/person for 3 boards

15 G.M.C.A. Advisory Board Meeting
Nick's Italian Restaurant
11 a.m.

BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr)
7 p.m.
\$5/person for 3 boards

17 Jazz on the Square
The Village Grille
Commercial Blvd. & A1A
7 p.m.

Live MMA Professional Fights
War Memorial
Doors Open at 7pm. First Fight at 8pm
Tix.: 786-543-1177

24 Jazz on the Square
The Village Grille
Commercial Blvd. & A1A
7 p.m.
Info.: 954-776-5092

Big Cypress Shootout
(Through 2/26)
Billie Swamp Safari
10 a.m. to 5 p.m.
Info.: www.bcsShootout.com/

2 Jazz on the Square
The Village Grille
Commercial Blvd. & A1A
7 p.m.

Disney's Phineas & Ferb: The Best Live Tour
BankAtlantic Center
Tix.: 954-835-7000

9 Jazz on the Square
The Village Grille
Commercial Blvd. & A1A
7 p.m.

Elton John
BankAtlantic Center
7:30 p.m.
Tix.: 954-835-7000

16 Jazz on the Square
The Village Grille
Commercial Blvd. & A1A
7 p.m.

Quilt Show by the Sea
(Through 3/18)
War Memorial
Info.: 954-987-8827

18 Riverwalk Urban Market
227 SW 2nd Ave.
8 a.m. to 1 p.m.
Info.: 954-298-5607

Ecoaction Day
(Clean up trash, plant native plants, or
remove non-native invasive plants)
Anne Kolb Nature Center
West Lake Park, Hollywood
9 a.m. to Noon
Info.: 954-357-5161

25 Riverwalk Urban Market
227 SW 2nd Ave.
8 a.m. to 1 p.m.
Info.: 954-298-5607

20th Annual Florida Renaissance Festival
(Through 2/26)
Quiet Waters Park
10 a.m. to Sundown
Info.: 954-776-1642

3 Riverwalk Urban Market
227 SW 2nd Ave.
8 a.m. to 1 p.m.
Info.: 954-298-5607

Feeding S Florida March for Hunger 5K
Hollywood Beach Boardwalk
6:30 a.m.
Info.: 954-518-1832

10 Riverwalk Urban Market
227 SW 2nd Ave.
8 a.m. to 1 p.m.
Info.: 954-298-5607

St Patrick's Day Parade & Festival
(Huizenga Plaza and along the Riverwalk to
Riverfront; Parade along Las Olas Blvd from
SE 8th Ave to Andrews Ave)
Noon - 9 p.m.
Info.: 954-828-5985

17 Riverwalk Urban Market
227 SW 2nd Ave.
8 a.m. to 1 p.m.
Info.: 954-298-5607

2012 Jazz in the Gardens:
2-Day Music Event
(Through 3/18)
Sun Life Stadium
Tix.: 305-622-8043

March 20
President Bill Clinton
Broward Center for the Performing Arts, 7:30 p.m.
Tix.: 954-462-0222

March 29 - April 1
Disney On Ice: Toy Story 3
BankAtlantic Center.
Tix.: 954-835-7000

March 30
17th Annual Wine and Culinary
Celebration
Museum of Discovery & Science
Tix.: 954-713-0954

March 31
Florida Derby
Gulfstream Park Racing & Casino
Info.: 954-454-7000

March 31
New Times 15th Annual Original Beerfest
Huizenga Plaza, 32 E. Las Olas Blvd, 6 to 11 p.m.
Info.: 954-233-1587

April 2
Red Hot Chili Peppers
BankAtlantic Center
Tix.: 954-835-7000



February 19, 2012

**FOR A COMPLETE LISTING OF
EVENTS, GO TO THE
CALENDAR AT
WWW.GALTMILE.COM**

MARCH 3 - 4: Las Olas Art Fair, Las Olas Boulevard, 10 a.m. to 5 p.m., Info.: 561-746-6615
MARCH 3 - 4: Butterfly & Garden Festival, Flamingo Gardens, 5 to 7 p.m., Info.: www.flamingogardens.org/Events.html
MARCH 10: Hillsboro Lighthouse Tour, Sands Harbor Hotel, Pompano, 8:45 a.m. to 3 p.m., Info.: 954-942-2102
MARCH 10: Water Matters Day, Tree Tops Park in Davie, 9 a.m. to 3 p.m., Info.: 954-519-0328
MARCH 10 - 11: Lauderdale-By-The-Sea Craft Festival, LBTS, 10 a.m. to 5 p.m., Info.: 954-472-3755
First Saturday of every Month: Beach Cleanup, Commercial Blvd & the Beach LBTS, 9 to 9:30 a.m., Info.: www.lbts.com
Wednesdays: Yoga in the Garden, Bonnett House, 8 to 9 a.m., Info.: 954-563-5393 ext. 137
Wednesdays: Pilates with Terry White, Esplanade Park, 6:30 p.m., Info.: 954-644-2330
Mondays and Wednesdays: Cardio Mix with josh Hecht, Esplanade Park, 6:30 p.m., Info.: 954-732-0517

Marcy Kravit's professional designations include Certified Manager of Community Associations (CMCA), as recognized by the National Board of Certification for Community Association Managers (NBC-CAM), Association Management Specialist (AMS) and Professional Community Association Manager (PCAM) - additional accreditations awarded by the Community Associations Institute (CAI).

Along with helping its board affirm the Galleon's status as one of the Galt Mile's premier associations, Marcy intermittently spends her lunch hour attending GMCA Advisory Board meetings, where she and Galleon President Donna Oppert work with other associations and elected officials to improve our neighborhood and protect its residents. Marcy also contributes articles that are posted on the Galt Mile web site and published in the Galt Mile News.

*Having served on the Southeast Florida Chapter of the Community Associations Institute (CAI) Board of Directors, Kravit and Magill are contributing writers to the Florida Community Association Journal, association management periodicals and local newspapers. Not surprisingly, their insights are right on the money! Thanks, Marcy, we are in your debt. - [editor]**

Bruce Roberts...Continued

As current city employees enrolled in the "Defined Benefits" programs of both systems retire and apply for benefits, its balloon impact on city finances could mirror the stretch marks left on Social Security by the retiring Baby Boomers. Many of the city's most recent reforms were designed to cushion this predictably painful transition. If Wall Street fails to perform as expected, the city's taxpayers could face another budgetary black hole.

*On the bright side, Seiler and the Commissioners have thus far managed to avoid the personal and political column that dismantled earlier attempts to negotiate concessions. Also, union representatives were given a seat on the panel that helped select the city manager they will face at contract time. In turn, they agreed to do what was required to keep the city solvent. When the police and fire fraternal orders renew their city agreements in 2012, taxpayers will be watching to see whether City Manager Lee Feldman and union negotiators can agree on the definition of "solvent". - [editor]**

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January-March 2012

Sweeten your direct mail deals with printing.



Direct Mail. The UPS Store® now offers a new USPS® postal program called Every Door Direct Mail™-Retail (EDDM™-R). With this new direct mail service, you can have a mail piece delivered to every single door on a postal route. What's more, with The UPS Store, the printing and delivery of that piece often costs less than what you would pay for a single first-class postage stamp.

Use Every Door Direct Mail to help you:

- Target a location without an address list
- Build more traffic for your business
- Reach new customers in your neighborhood
- Find ways to grow your business

Printing. Printing your direct mail with The UPS Store can be a great way to enhance your next campaign or promotion period. Here are three of the top reasons¹ to choose print for your next campaign:

- 1. Print is for keeps.** Print says that your message is significant. It says you cared enough to put it on paper, you're authentic rather than virtual, and you will be there when your customers need you.
- 2. Print gets noticed.** Print is particularly persuasive as direct mail. Why? Because people gravitate toward print. A study by the U.S. Postal Service® found that 83-84% of mail is either read or

visually scanned by recipients.² This makes direct mail a great way to help expand business relationships and keep customers loyal.

- 3. Print plays well with others.** Print enhances the overall impact of Internet, radio and television media by providing your prospects with an extra dimension that they can't ignore because they're holding it right in their hands.

Stop by and learn more today.



Mailboxes that do more.

Convenient and worry-free mail service. With personal mailbox services from The UPS Store, there's no need to wait around for a package delivery or to risk having valuable shipments left on your doorstep. We can receive packages from any carrier and keep them in a safe place until you're ready to pick them up. Other mailbox services options include:

Mail holding and forwarding. Just give us a date and we'll hold your mail and packages in a secured location for your convenience.* Or, if you're out of town, we can forward them to you.* We'll handle the logistics, so you can have an easier day.

Email and/or text message alerts.

We'll notify you when your mail and packages have arrived at The UPS Store, eliminating unnecessary trips or extra phone calls to the center.

Small business owner advantage.

The UPS Store provides an actual street address versus a P.O. Box. This gives business owners a more professional image. Also, if you're running a business out of your home, you won't have to give out your home address, helping you maintain more privacy.

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The UPS Store



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