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Big bills hit Prairie Avenue tower residents

Life-changing decisions loom as fight with developers continues

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1717 S. Prairie
Courtesy Michael Purgatorio

This July, Julie Marburger owes the property manager of her condominium building at 1717 S. Prairie a check totaling $5,226.

The amount includes a monthly assessment that goes toward general building operations of $496, and a special assessment of $4,730, the first payment in a two-part, $6.5 million assessment the building's board levied this March to repair water leakage in the building.

And, as Marburger put it, "the big one's looming."

Next year, Marburger, the owner of a one-bedroom unit in the building since 2004, will owe an additional $26,015 to complete her share of the $6.5 million assessment. The more than $30,000 she'll spend on the assessment is the amount some people spend on a down payment or a new car.

That number itself could go up, should other unit owners fall into foreclosure because of trouble in the economy or housing market, or if they cannot afford to pay their share of the special assessment. There are already five units in foreclosure at 1717 S. Prairie, said Leonard Szwajkowski, the board president. He estimated another floor-10 units-could go into foreclosure at the building because of the economy and assessments.

This year's special assessment follows one totaling about $240,000 last year to pay for legal fees-the condominium board has filed two main lawsuits against the building's developers, William Warman and Warren Barr-and a $225,000 assessment made in 2006 to cover a shortfall when the building was turned over from the developers.

Covering the costs has been difficult on residents at 1717 S. Prairie. Some report they are considering breaking into 401(k) retirement funds while others have already done so. Erika Lungas, 66, a nurse who lives in the building, has put off retiring for another year to save for her $30,000 bill while Diane Anderson, retired from United Airlines, said she has become physically sick about the situation.

Marburger, a 34-year-old pharmaceutical sales representative, has stopped shopping like she used to. She's not eating out and has skipped vacations to brace for the payments. If she drains her savings account to pay for the assessment-her bank recently declined to extend her home equity loan-she will be living paycheck to paycheck, something she hasn't done since college. It's a frightening prospect to face, she explained, especially given the "incredibly difficult economy."

"Here I am a first-time homeowner. You can imagine how disheartened I am," Marburger said recently. "And here's the bottom line: It is forcing people into foreclosure. I am not there. I am not close to being there. But the thought and fear of that is just devastating is to me."

"I love this building. But our developer has totally devastated us," she said, referring to Warman.

Warman, the managing partner of the limited liability corporation that developed the building, did not return Chicago Journal's e-mails or a phone call for comment.

"We're trying to settle it in a way that works to benefit everyone in building," said Warren Barr, one of the developers.

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The 23-story, 175-unit building at 1717 S. Prairie, with its sweeping views of downtown and the lake, is embroiled in litigation over water infiltration issues and alleged financial problems that occurred before the building was turned over to the condominium board. The main lawsuit was filed in 2005, and has been amended since the initial complaint.

The building was constructed in 2002 with the first residents closing on units in November 2003. The developer turned the building over to the newly constituted board in August 2004. It wasn't long after that turnover that the problems started emerging at the building.

Szwajkowski, the board president, claims the developers borrowed money from the reserve fund to operate the building, allowing them to market the building with artificially low assessments. The board eventually had to twice raise monthly assessments for building operations by 18 percent and "got really smacked" by building residents for doing it, he said.

Later, the board hired an accounting firm, which studied financial data during the pre-turnover period and stated the developer owed the board $176,000. A lawsuit alleges the developer mismanaged the condo association when they were in control of it, failed to fund reserves, pay assessments on unsold units and collect them from owners until the first board was elected.

Barr declined to comment on the turnover audit.

The other issue that became apparent to the board was problems with water leakage into the building and residents' units.

Marburger said her unit leaks depending on the slant of the rain. The first time it happened, a neighbor was watching her dog while she was out of town. The neighbor called her and said, "Your place is flooding," she remembered.

Szwajkowski said the board learned about water leakage problems when it assumed control of the building in 2004, and filed a warranty claim in October of that year, before it expired in November.

"We essentially ... want what we bought," Szwajkowski said. "We bought homes that are not supposed to have water in them."

He said the developer paid for two water infiltration studies. A third was completed on the board's behalf by the engineering firm WJE. It was the WJE report that estimated the leakage repairs would cost $4 million to $8 million. That number later was refined to $6.5 million, the cost of the assessment, when the repairs went out to bid to three general contractors and one was chosen, Szwajkowski said.

In their lawsuit, the board at 1717 S. Prairie alleges the developer breached their warranty by not addressing "severe water infiltration due to the faulty construction for which the developer is responsible." The lawsuit accuses the developers of defrauding customers by "knowingly and purposely" not disclosing the building's water problems to customers.

Barr disagreed with the approach the board is taking to address the water issues-not every unit leaks. While he declined to get into specifics, Barr said, "My opinion [is] there's a more cost-effective way to go the board did not pursue."

He said the water repairs go too far. "A good analogy is the car to get you to and from work-you could get by in a Chevy or in a Mercedes."

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Hanah Jubeh, 2nd Ward Alderman Robert Fioretti's campaign manager and a current aide to him on ward development issues, said she has been trying to mediate a resolution between the developers and the condo owners for more than a year.

She said all permits for Barr's developments in the 2nd Ward-which would presumably include parcels at 1000 S. Michigan and 830 S. Michigan-are on hold until the situation is resolved.

But Jubeh, while saying she would go ahead with litigation if she lived at the building, seemed frustrated with the board's tactics.

"The board wants to continue to pursue that legal path. I'd be the last person to say, 'Hey, Warren Barr is not at fault here,' " Jubeh said. But, she went on to say, "Here you've got a guy knows where he went wrong.

"You have a board that's not willing to discuss or have attorneys negotiate to work this deal out."

Jubeh wants all sides to sit down and hammer out a settlement, though she declined to talk specifically about what's on the table. "I've not discussed [it] with the board or residents in the building. We want residents to understand there's been active, concrete discussions on this."

Szwajkowski rejected that idea, saying he's waiting for a settlement proposal in writing. "I'm hearing there's negotiations going on," he said. "How much more talking are we going to do as a board and as a group? Someone needs to say, 'Here's your check or here's your settlement.' That's never happened.

"Continuing to meet is very time-consuming. It absorbs a lot of time from the board, management and legal team. Every time [we use] the legal team, it costs money."

With negotiations stalled, assessments mounting and the litigation slowly winding its way through circuit court, residents of 1717 S. Prairie are wondering what comes next amid the legal tactics, talk of negotiations and hefty costs.

The $6.5 million special assessment has made some critical of both the board and the developers.

"I just feel that Barr and Warman think the fix could be done cheaper. They're saying the $6.5 million fix is ridiculous, outlandish," said Jane Justic, a building resident who works with Jubeh at Fioretti's office. "I just think that we should be trying to talk to them. But Leonard said he's through talking."

Lungas, the nurse who is delaying retirement to pay her share of the assessment said, "I wish Barr and Warman would rot in hell. They're terrible developers."

But Lungas, whose unit does not leak water, was also tiring of the large special assessments.

"How much more special assessments will we be asked to pay? It's just frustrating," Lungas said. "I don't know why we go with this company. A lot of us are very frustrated. My question is why does it cost so much money?"

Szwajkowski, the president, defended the decision, saying the board has a legal responsibility to protect the building. Water travels, he said, and it can produce mold; there are common areas to think of as well.

For residents like Marburger, the delays and slow process seem like tactics in and of themselves.

"We've got a little more money than you guys," she said, imagining Warman and Barr's thought process. "We're going to continue to wear you down."