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THWARTING THIEVES:

Tyco has opened a mock retail center stocked with anti-theft devices

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BankAtlantic buyer search: the sequel

BY BRIAN BANDELL

Now that BankAtlantic Bancorp Chairman and CEO Alan B. Levan's unconventional plan to sell his banking operations to BB&T Corp. has been scuttled by a judge, he is under the gun to find a buyer with different terms.

Delaware Court of Chancery Judge J. Travis Laster ruled Feb. 27 that the company's deal to sell its deposit franchise and its performing assets to BB&T (NYSE: BBT) would violate the terms of BankAtlantic Bancorp's trust-preferred securities (TruPS) corporate debt, which the buyer in such a transaction would be required to

repay or assume. BankAtlantic Bancorp (NYSE: BBX) planned to keep the principal TruPS debt outstanding while retaining about \$623 million in nonperforming and criticized assets.

Laster permanently enjoined the deal under

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Banks, HUD take residences, but don't pay fees, attorney says

BY PAUL BRINKMANN

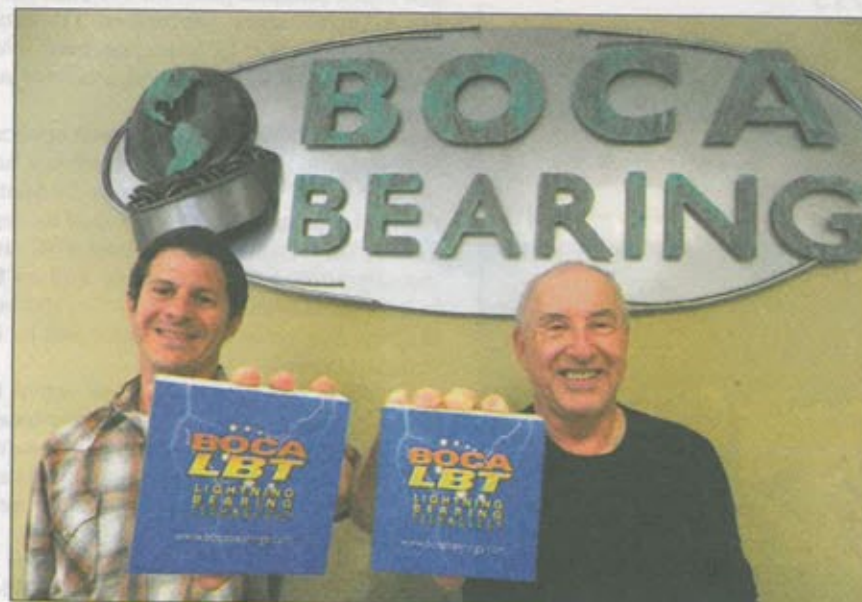
Attorney Ben Solomon has spent the last several years helping community associations adapt to the quicksand nature of the foreclosure crisis and the impact on their budgets.

Last year, Solomon worked out methods to force banks to take possession of units for which foreclosure actions had stalled. If the unit ownership was in limbo, so was the fee income from that unit.

But now, Solomon says, he has a new problem involving banks and the U.S. Department of Housing and Urban Development: They aren't paying the monthly fee as required when they take possession.

There has long been a controversy over how much of the fees in arrears the bank is responsible for when it takes possession. Florida law requires the bank to only pay a percentage of previously existing debt. But Solomon says banks are also declining to stay current on monthly fees.

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Boca Bearing Co.'s Jason Flanzbaum and Allen Baum recently moved the company, founded 25 years ago, to Boynton Beach.

SUSAN R. MILLER

Company doesn't lack bearings when it comes to business model

BY SUSAN R. MILLER

Tucked deep inside the Sierra Diablo mountain range in western Texas sits a timepiece under construction that's designed to tick for 10,000 years: the millennium clock.

Halfway across the country, tucked inside a strip of warehouses in Boynton Beach is a company with ties to that project: Boca Bearing Co.

Boca Bearing supplied the stainless steel, titanium and ceramic ball bearings required to keep the clock ticking.

Now in its 25th year, Boca Bearing has made a name for itself among radio control hobbyists, scientists, artists, inventors and just about anyone involved in creating works with

SEE BOCA BEARINGS | 44



SET FOR SALE?

The Genting Group and other investors want to develop all or part of 10 acres owned by Miami-Dade County Public Schools. Part of the land includes this mural-adorned building at 1500 Biscayne Blvd. P3



PRICY PROPOSITION

How much do you think this Mediterranean-style mansion at 2900 N.E. 37th St. in Fort Lauderdale is selling for? See the asking price when you read our luxury real estate column. P9



PALM BEACH ULTIMATE CEOs

Who were the recipients of the Business Journal's 2012 Palm Beach Ultimate CEO Awards? Find out by reading the special section that honors them. P15

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FEES: HOAs have holes in their budgets when banks don't pay fees

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"Banks aren't paying, even when they become the owner now. They almost never pay. They wait until the sale occurs, which is, in some cases, six months to a year, and then they take it out of the sale proceeds," Solomon said. "But, in the meantime, the association has the hole in its budget. So we are recording the liens and foreclosing on them."

Solomon recently had a \$14,247 lien recorded against HUD in the Keys Gate subdivision in Homestead that included legal fees associated with the unit. Attorneys representing HUD have now filed a federal lawsuit against the Key Gate Association to nullify that lien.

Becker & Poliakoff attorney Steven Davis is representing HUD in the suit against Keys Gate. According to the complaint, the Keys Gate lien is not enforceable because it is for extraordinary legal fees, not normal maintenance fees. Davis said it is illegal to record a lien against HUD for such fees, and he wants a federal district court ruling. The case is be-



FILE PHOTO

There is a lawsuit against the Keys Gate Association to nullify a lien against the subdivision.

fore U.S. District Judge Joan A. Lenard.

The complaint says HUD has been attempting to sell the property.

Banks are legally bound to pay ongoing

fees on units they own, said Bob Rausch, an attorney at Hunton & Williams who represents banks.

"I'm guessing the reason may be that the

bank is overwhelmed and can't keep track," he said. "But the law is pretty clear, and it's hard to imagine they would intentionally not pay the assessments just because it's cheaper."

Other methods for coping with the impact of the foreclosure crisis on associations include blanket receivership and "tenant direct" payments of fees that skip over a delinquent landlord.

Peter Sachs, an attorney with Boca Raton-based Sax Sachs Caplan, also represents community associations.

He said the law is clear that whomever owns the property must pay the fees, but more of his association clients are simply resorting to becoming the landlord themselves and supplementing their budgets with rental income.

Sachs said any association with a large number of bank-owned units would have trouble with potential buyers seeing that and realizing there may be a problem in the development.