

# Does Foreclosure Complaint Prevent Community Association from Enforcing Rules and Regulations?

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A ***New Jersey Chancery Court*** was called upon to rule whether the filing of a foreclosure complaint by a condominium association prevents the association from taking other actions to enforce its rules and regulations as they would apply to the defendant in the foreclosure action.

Specifically, a condominium association had started a foreclosure action against an owner, seeking to foreclose its liens. During the pendency of the foreclosure case, the Association decided to enforce its parking revocation policy, as set forth in the association's Governing Documents. It sought to revoke parking privileges of the owner because of the substantial arrears.

The unit owner raised as a defense to the revocation of parking privileges that the matter was already the subject of the association's foreclosure action, and that any other actions undertaken by the association to deprive the unit owner of any rights or privileges of ownership must be stayed until the foreclosure case had been concluded. The unit owner/defendant argued that if the association was successful in its foreclosure, then all rights and privileges, including parking, would be taken from the defendant at that time. The unit owner then argued that the association could not avail itself of what it called self-help means by revoking parking privileges prior to obtaining Judgment on the foreclosure case.

The association argued successfully that an association could not be deprived of its enforcement rights, and be put in a worse position by the filing of a foreclosure action than it would be in had it not commenced the foreclosure. It claimed that the two were not dependent upon each other, and that it made no sense for a court to allow a debtor to retain privileges he or she would not be able to retain if no foreclosure action had been pending.

The Court agreed with the position of the association and upheld the revocation of parking privileges, to take effect prior to any foreclosure Judgment. A judgment of Foreclosure was obtained by the association several months after the privileges had been revoked.

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