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Judi Burns stands in front of her current residence in Henderson on Tuesday. After a dispute with the Pebble Creek Homeowners' Association and a seven-year court battle, she lost her home and savings.

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All is lost in brutal game

Association picks up the chips

By Dan Kulin <dan@lasvegassun.com>
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In Las Vegas, there's nothing unusual about someone losing everything she bets.

Judi Burns, though, lost *more* than she bet - much more. On what turned out to be a \$2,100 wager, Burns dropped more than \$130,000, maybe as much as a quarter of a million dollars, depending on how you count.

And the thing is, Burns never even knew she was betting - not just betting, but betting nearly everything she owned.

In what began as a dispute over a fine assessed by her former homeowners' association, Burns ended up losing her Henderson house and her retirement savings - and a lot of her faith in the legal system.

"I could keep fighting and I wish I could, but I just can't afford to," said Burns, a 56-year-old clerk who carried her battle to be compensated for the loss of her house all the way to the Nevada Supreme Court. There, as in lower courts, she lost again.

Last week, a three-judge panel of the state's high court upheld an earlier decision in favor of the homeowners' association. While Burns could appeal to the full court, she cannot afford to do so - and her attorney doubts that doing so would change the outcome.

"I think carrying it on any further would be a waste of time," attorney Hal Taylor said.

The dispute originated more than seven years ago when Burns was fined by the Pebble Creek Homeowners' Association for a pickup truck being parked in the wrong spot and having an unregistered car in her driveway.

At the time, Burns wrote and called the homeowners' association to explain her side of the story, contending that the truck did not belong to her and that the "unregistered" car was in fact properly registered.

When the group refused her request to lift the fines, in January 1999 she stopped paying her \$25-per-month association fees, hoping that would jar the association into taking her complaint seriously.

To her eternal chagrin, it did.

While Burns continued paying the mortgage on the two-story, three-bedroom house that she had bought in 1994 for about \$130,000 - and which she said is now worth more than \$250,000 - the association moved ahead with plans to foreclose on the house.

Even after the association foreclosed and sold the house at auction in March 2001 for only \$10,100 - a low price that reflected the fact the purchaser was wading into a legal mess with an uncertain outcome - Burns continued paying her mortgage, finally paying it off in June 2002.

Burns could have prevented the sale by paying the homeowners' association \$2,100 in fines, back dues, late fees and penalties, Taylor said.

But Burns said she never realized that her homeowners' association was preparing to seize and sell her house while she was still living in it. (An attorney for the Pebble Creek Homeowners' Association did not return telephone calls from the Sun.)

When she finally grasped the calamitous circumstances facing her, she took the matter to District Court. After losing her case there, she had to move out of her house in February 2004.

Taylor had argued that the homeowners' association incorrectly lumped Burns' fines and unpaid monthly dues together, and that she was not given adequate notice of the group's plan to foreclose and sell her home.

Courts ruled, however, that the foreclosure and sale were legal because they were based on the unpaid dues, and that Burns received adequate notice.

By the time of last week's unfavorable ruling by the Supreme Court panel, Burns had spent more than \$50,000 in legal fees and moving expenses.

Now living with her boyfriend and his two children in part of a house they rent in Henderson, Burns said she hopes no one else ever again experiences what she did.

And state officials say new policies in place should prevent anyone else from suffering through the same ordeal.

If the same dispute arose today, Burns probably would not have lost her house, said Sen. Mike Schneider, D-Las Vegas, who has sponsored laws to regulate homeowners associations.

Now, Nevadans involved in similar disagreements can look to an active homeowners' association ombudsman's office.

"If Judi's case were to happen today, she would have gotten a call from the ombudsman saying, 'You know they are going to sell your house,' " Taylor said.

"Judi always said she got no notice of the actual sale, so getting a phone call from a government official would have put her on notice."

In addition to the ombudsman's office, the state also now has a Commission for Common Interest Communities, which Schneider said is essentially a court for homeowners' associations.

Had the commission, which began holding hearings in May, existed seven years ago, Burns could have taken her dispute over the fines to the panel.

Eldon Hardy, the state ombudsman for common interest communities, said anyone with a problem with his home-owners' association can reach him at (702) 486-4480.

"The bottom line for homeowners is that you've got to pay your dues," he said. "They can only take your home if you don't pay your dues."

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