

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ENTERED ON  
JUL 26 2008  
DOCKET

IN RE:	:	CASE NO. 07-70108-JB
	:	
ANN MARIE FRIDELLA,	:	CHAPTER 7
	:	
Debtor.	:	
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ANN MARIE FRIDELLA,	:	
	:	CONTESTED MATTER
Movant,	:	
	:	
v.	:	
	:	
RENAISSANCE HOMEOWNER	:	
ASSOCIATION, INC.,	:	
	:	
Respondent.	:	

**ORDER**

Debtor Ann Marie Fridella filed a motion to avoid a lien of respondent Renaissance Homeowner Association, Inc., citing 11 U.S.C. § 522(f)(1) and § 522(b). The motion seeks to avoid the lien on real property used by the debtor as her residence. Although no response has been filed to the motion, it cannot be granted, as debtor does not allege facts sufficient to support the relief requested.

The lien avoidance statute in the Bankruptcy Code allows a debtor to avoid a lien on an interest of the debtor in property to the extent such lien impairs an exemption if and only if (1) such lien is a certain type of judicial lien or (2) such lien is a nonpossessory, nonpurchase-money security interest in certain types of personal property. Debtor's motion does not allege the existence of any judicial lien, and debtor has not attached any judgment or documentation to the

motion. A property owners' association lien on debtor's residence would be a statutory lien under O.C.G.A. § 44-3-232, and statutory liens are not avoidable under § 522(f). *King v. Cherrywood Resident Association, Inc. (In re King)*, 208 B.R. 376 (Bankr. D. Md. 1997) (a condominium association lien is not a judicial lien and is not avoidable under § 522(f)); *In re Beckley*, 210 B.R. 391 (Bankr. M.D. Fla. 1997) (a debt owing to a homeowners association for assessments, even in the form of a final judgment, is not a judicial lien that can be avoided under § 522(f)). Accordingly, debtor's motion to avoid the lien of Renaissance Homeowners Association, Inc. is DENIED.

IT IS SO ORDERED, this 25<sup>th</sup> day of July, 2008.

  
JOYCE BIARY  
UNITED STATES BANKRUPTCY JUDGE

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