



**CITY OF FORT LAUDERDALE**  
**City Commission Agenda Memo**

**# 12-1310**

**TO:** Honorable Mayor & Members  
Fort Lauderdale City Commission

**FROM:** Lee Feldman, City Manager

**DATE:** August 21, 2012

**TITLE:** Motion for Discussion – Proposed Lien Settlement (785 Middle River Drive)

**Recommendation**

It is recommended that the City Commission review and approve the attached lien settlement as recommended by the City Manager.

**Background**

The proposed lien settlement does not meet the criteria to be approved pursuant to City Commission Resolution 05-50, approved on March 15, 2005. In particular, the property is not currently in compliance of the code violations for which the lien was placed; however the recommended settlement addresses compliance as a condition of approval.

<b>Property Info</b>	
Case Number	<b>CE08060529</b>
Address	785 Middle River Drive
Owner	Joseph Guaracino
Zoning	RS-4.4
BCPA Assessed Value	\$1,339,200.00 (as of August 14, 2012)
BCPA Taxes	\$30,021.34
Homestead Tax Exempt	No
Mortgage	\$1,500,000.00 (as of May 25, 2007)
<b>Lien Info</b>	
Original Amount	<b>\$2,478,000.00 (as of August 16, 2012 – accruing at \$2,000.00 per day)</b>
Recorded Date	June 16, 2009
City Costs	\$1,546.00
Amnesty Rate	
Recommendation	<b>\$25,000.00 (1.01% of lien)</b>
Reduction Factors	<ul style="list-style-type: none"><li>▪ The property is not currently in compliance on this violation.</li><li>▪ The property is being maintained and free of other violations.</li></ul>

<b>Motion for Discussion</b>	Joseph Guaracino purchased this property on May 25, 2007 for \$2,000,000.00. Early in 2008 a fire gutted the interior of the home. Work began, without permits, to rebuild the interior of the structure. On June 06, 2008 a Building Inspector initiated a case and posted a Stop Work Order. On November 04, 2008, Chevy Chase Bank initiated a foreclosure action against Mr. Guaracino. Mr. Guaracino has had additional legal problems and has been forced to sell all of his properties. Attorney Laura Brogan, representing Mr. Guaracino, has a contract with a proposed buyer to purchase this property for \$1,105,000.00. Only July 16, 2012, Ms. Brogan contacted City Manager Lee Feldman in an effort to reach a pre-purchase agreement prior to the closing date of this sale. On August 12, 2012, Ms. Brogan agreed to a proposal by CM Feldman to bring the property into compliance in exchange for a settlement and release of this lien. The new prospective property owner has agreed to pay the City \$25,000.00 at closing, from the proceeds. In addition the buyer has agreed to demolish the structure within 90 days of closing. This action would bring CE08060529 into full compliance. The buyer also agrees to complete construction on a new residence within 18 months of the closing date. The City Manager is recommending that the Commission approve this agreement.
<b>Special Magistrate</b>	
Certified Mail Receipt Date	February 09, 2009
Meeting Date	February 24, 2009
Violations	18-1 – The water in the swimming pool is green and stagnant. 9-280(b) – There are wide structural settlement cracks at the SW corner of the building. The walls and foundation are not structurally sound. 9-280(g) – The fire damaged wiring and outlets in the affected areas. FBC 105.1 – The interior of the structure has been altered by demolition of 80-90% of the interior space. A dock and pilings have been installed. This work was completed without the required permits and approvals. FBC 105.2.11 – The mechanical system has been altered by removing the ductwork components. FBC 105.2.4 – The plumbing system has been altered by demolishing the bathrooms and kitchen, which are now not functional. FBC 105.2.5 – The electrical system has been compromised by interior demolition and the removal of outlets, switches, drywall, partition walls and other critical components without the required permits and approvals. FBC 106.10.3.1 – Dock and Dolphin pile permit 08021902 has expired but the work on both has been completed.
Outcome	The order required compliance within 28 days or a fine of \$250 per day, per violation for would begin to accrue.
Hearing to Impose a Fine	April 28, 2009
Compliance Date	The property is currently not in compliance.

### **Resource Impact**

Lien in the amount of \$2,478,000.00 will be reduced to \$25,000.00. Revenue will be placed in the General Fund, Index #BLD020101, Sub Object #M103.

**CITY OF FORT LAUDERDALE,  
Petitioner,**

**Case No. CE08060529  
Code Enforcement Board**

**v.**

**GUARANCINO, JOSEPH,  
Respondent. /**

**LIEN SETTLEMENT AGREEMENT**

WHEREAS, Joseph Guaracino (hereinafter referred to as "OWNER") is the owner of real and improved property located at 785 Middle River Drive (hereinafter referred to as "SUBJECT PROPERTY"), Fort Lauderdale, Florida, and has executed a purchase and sale agreement to sell the property to Michael Batt (hereinafter referred to as "BUYER") under certain terms and conditions; and

WHEREAS, BUYER has executed a purchase and sale agreement to buy SUBJECT PROPERTY from OWNER under certain terms and conditions; and

WHEREAS, the City of Fort Lauderdale recorded a code enforcement board lien in Case number CE08060529 on June 16, 2009 in the Public Records of Broward County, Book 46305, Page 655, against OWNER for code enforcement violations against SUBJECT PROPERTY; and

WHEREAS, the above referenced code enforcement violations are not in compliance and fines continue to accrue at a rate of \$250.00 per day per violation; and

WHEREAS, OWNER and BUYER have requested that the City of Fort Lauderdale reduce its above referenced code enforcement lien to \$25,000.00 on SUBJECT PROPERTY in order to complete the purchase and sale of SUBJECT PROPERTY under certain terms and conditions; and

NOW, for good and valuable consideration, the sufficiency of which is agreed to by the OWNER, BUYER and City of Fort Lauderdale, the following are the terms and conditions of the lien settlement:

1. City of Fort Lauderdale shall receive in the form of an attorney's Trust Account check, a cashier's check or money order, made payable to the City of Fort Lauderdale, the sum of twenty-five thousand (\$25,000.00) dollars at the closing of the SUBJECT PROPERTY. Upon receipt recorded of the attorney's Trust Account check, cashier's check or money order in the amount of twenty-five thousand (\$25,000.00) dollars, City of Fort Lauderdale will provide a release of code enforcement lien to BUYER'S attorney, subject to the terms and conditions of this lien settlement agreement.

2. Within ninety (90) days following the closing of the SUBJECT PROPERTY, all structures with code violations on the SUBJECT PROPERTY shall be demolished and all demolition debris shall be removed by the BUYER.

3. Within eighteen months (18) months of the closing date, BUYER shall commence construction of a new residence on SUBJECT PROPERTY.

4. At any time if the OWNER and/or BUYER fail to adhere to the conditions of this Lien Settlement Agreement, the City of Fort Lauderdale shall reinstate the code enforcement lien on the property and record said code enforcement lien in the Public Records of Broward County, which lien shall remain against OWNER and SUBJECT PROPERTY until the code violations are fully complied and the total amount of the lien paid in full.

5. The parties herein have had an opportunity to review this Lien Settlement Agreement, had the benefit of advice of legal counsel of their choice and knows and fully understands the contents hereof and signs this Lien Settlement Agreement of their own voluntary free act without any coercion.

CITY OF FORT LAUDERDALE

By:

Mayor

By:

City Manager

ATTEST:

Jonda K. Joseph  
City Clerk

Approved as to form:

By:

City Attorney

DATED: \_\_\_\_\_

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BUYER

By:

Michael Batt

DATED:

9-25-112

OWNER

X By:

Joseph Guaracino

DATED:

9-12-12

Approved as to form:

By:

Laura Brogan, attorney for SELLER