



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#15-0082

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: February 3, 2015

TITLE: Ordinance Expanding Authority of Special Magistrate Relating to Code
Enforcement Liens

Recommendation

It is recommended that the City Commission adopt an ordinance delegating authority to the Special Magistrate to settle the disposition of code enforcement liens.

Background

On July 15, 2008, the City Commission enacted Ordinance C-08-36 to improve the code enforcement process for the betterment of the entire community. Section 11-3 of this Chapter established the authority of the Special Magistrate and a quasi-judicial board to hear and decide on code violation cases and to impose fines and liens on cases where the owner has not complied the violation(s). As a result, to date, liens currently exceeding \$171,000,000 have been recorded against the related properties.

As the economy struggled and property values decreased, in many cases property owners found the amount of their unpaid lien to be higher than the assessed value of their property. In an effort to satisfy these overdue accounts and bring properties into compliance to enhance neighborhood vitality, a lien reduction program was established to provide property owners with a process to request settlement of outstanding liens. Pursuant to Resolution 13-325, the City Commission authorized the City Manager to settle and release certain code enforcement liens, such as liens with a face value of \$25,000.00 or less and liens "cross attaching" the property owner to another site outside of the City's jurisdiction or being associated with the buyer rather than the seller. Liens in excess of \$25,000 are presented to the City Commission for approval.

Currently, an administrative process is in place to process these lien settlement requests, which summarily requires diligent research on property ownership for the subject property, ownership of all properties owned, foreclosure status, calls for service for police or code response, history and status of code violations, and current face value of any liens. When the submittal packet is completed, the Code Compliance Manager meets with the owner or authorized representative to negotiate the settlement amount. Once a settlement amount is reached, the tentative agreement is routed to the City

Manager for his review and acceptance of the agreement. Finally, the recommended lien settlement is brought before the City Commission for final approval.

As an administrative policy, the lien settlement minimum has been set at 75% of the outstanding lien amount (or \$0.75 per dollar), with the exception of hard cost liens at 100% and Waterworks liens in accordance with an established schedule. This policy has resulted in a significant increase in staff time required to respond to repetitive appeals by the owner for reconsideration of the reduced lien amount. Resources spent to facilitate communication between the owner and the City Manager's Office has also increased because often the owner has elevated the issue for resolution.

The repetition of these steps ultimately lengthens the period for the property to be sold, occupied and maintained. The process can be simplified by bringing lien settlement requests before the Special Magistrate to weigh evidence presented at the hearing and render a decision on the request.

Changing this process and directing the lien settlement requests to the Special Magistrate reduces the time staff spends on coordinating separate negotiation meetings with the owner and Code Compliance Manager, setting up subsequent conferences with the division manager or City Manager for appeals, synchronizing information between the various city personnel who are intervening the process, and following up with the owner on the status of the request. The level of service will improve because the owner will receive a confirmed date of the hearing, attend and provide evidence at the hearing, and be present for the Special Magistrate's ruling, but also the decision will be made in one central location and at one hearing before the Special Magistrate.

However, there is a provision in the proposed Ordinance amendment that enables staff to bring the request before the City Commission for a determination when extenuating circumstances exist. The City Manager will also have the authority to execute administrative releases for unenforceable liens such as properties undergoing bank foreclosure or bankruptcy as well as releases in lieu of litigation no less than 75% or 85% of the face value of the lien.

City staff contends the requests for lien settlement merit a fair and objective treatment. The Special Magistrate is a more appropriate official to hear the request for lien settlement, particularly since the fines were originally imposed by a Special Magistrate or the Code Enforcement Board in its quasi-judicial capacity. The Special Magistrate may deny the lien settlement request. In addition, the order of the Special Magistrate will include a stipulated timeframe for payment and a fine reversion clause if payment is not timely remitted.

The guidelines for the reduction of liens that are currently used by staff and will be provided to the Special Magistrate for consideration in reviewing lien settlement requests are outlined below:

1. Relevant factors will be considered to determine the appropriate relief to be granted, include, but are not limited to:

- a. The nature and gravity of the violation;
 - b. Any actions taken by the owner to correct the violation;
 - c. The length of time between the ordered date of compliance and the date the violation was brought into compliance;
 - d. Any actual costs expended by the owner to cure the violation as provided by supporting documentation, including payment of City licensing or permit fees;
 - e. Any other prior or current violations committed by the owner on the subject property or upon any other property owned by the owner within the City;
 - f. Repeat violations committed by the same owner regardless of whether it is on the same property;
 - g. Costs incurred by the City to abate the violation and prosecute the case, including administrative and overhead expenditures; and
 - h. Value of contribution to the Adopt-A-Neighbor program.
2. Transfer of ownership after recordation of the City's lien shall not be considered as a factor in the lien settlement request; nor shall a lapse of time before seeking enforcement be considered.
3. Any reduction granted shall be contingent upon payment of any outstanding amounts within a specified time period. Failure to provide valid payment to the City within the specified time period shall cause the original penalty(s) to be reinstated.
4. The lien settlement request must present a clear and convincing case for lien reduction, which is determined by the Special Magistrate; otherwise it shall be denied.
5. If relief is denied based upon the merits of the claim, such denial shall be with prejudice and the matter will not be reheard.
6. Reduction under this section is strictly discretionary by the Special Magistrate, and the order of the Special Magistrate is subject to appeal as provided herein and otherwise provided by law for administrative proceedings.
7. The City Commission may grant relief, conditioned upon compliance within a specified time period, for property that is not in, or cannot be placed in, compliance, in exceptional circumstances.

The Adopt-A-Neighbor program and city employees may benefit from this new structure as it may result in an increase of revenue.

The City Commission's adoption of the proposed amendment streamlines our process and aligns it with our priority action plan items and strategic plan initiatives. The new format also enhances the neighbor's experience.

Resource Impact

Although the proposed Ordinance modification requires the Code Compliance Division to make some administrative changes to process and finalize these requests, the City staff anticipates no significant impact on the budget or human resources, unless staff is required to conduct a more extensive diligent search on property owners, related affiliates, foreclosure proceedings, and real estate portfolio.

Strategic Connections:

This item is a *Commission Annual Action Plan* priority, included within the Management Agenda, advancing the Code Compliance Process Improvement effort.

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Neighborhood Enhancement Cylinder of Excellence, specifically advancing:

- Goal 5: Be a community of strong, beautiful, and healthy neighborhoods.
- Objective 2: Enhance the beauty, aesthetics, and environmental quality of neighborhoods.
- Initiative 4: Implement the finding from the Code Compliance Process Improvement.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Community*.

Attachment:

Exhibit 1 – Proposed Ordinance

Related CAM: 14-1300

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