



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#17-0270

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

FROM: Cynthia A. Everett, City Attorney

DATE: February 21, 2017

TITLE: A Resolution Authorizing the City Attorney or the City Attorney's Designee to
Initiate the Foreclosure of Code Enforcement and Other Municipal Liens, Bid
on the Foreclosed Properties at Foreclosure Sales, and Seek Deficiency
Judgments

Recommendation

It is recommended that the City Commission adopt a resolution authorizing the City Attorney or the City Attorney's designee to initiate civil actions to foreclose code enforcement and other municipal liens, to bid on the foreclosed properties at foreclosure sales, and to seek deficiency judgments as deemed appropriate by the City Attorney.

Background

Chapter 159, Florida Statutes, Chapter 162, Florida Statutes, Chapter 170, Florida Statutes, Chapter 190, Florida Statutes, Chapter 11, Code of Ordinances of the City of Fort Lauderdale, Florida, and Chapter 18, Code of Ordinances of the City of Fort Lauderdale, Florida, empower the municipality and the City's Code Enforcement Board and special magistrates to impose liens on properties that are in violation of various codes, and provide for the foreclosure of such liens.

The City Commission desires to mitigate the impact of nuisance properties by foreclosing on code enforcement liens and other municipal liens. These nuisance properties persistently require abatement action by the City, such as, variously, continuous lot clearing of the overgrowth and trash, repeat boarding up of the structure to avert squatters, demolition of unsafe structures, and constant monitoring by law enforcement to prevent and extract criminal activities.

Traditionally, foreclosure matters have been brought before the City Commission on a case by case basis, seeking authority to foreclose upon specific properties. As the City of Fort Lauderdale takes a more active approach in foreclosing upon local properties, the City Attorney's Office is seeking general authorization to initiate foreclosure actions in order to ensure a greater level of efficiency.

In order to methodically implement this strategy, the Department of Sustainable Development, Code Compliance Division through the City Manager's Office, will provide the City Attorney's Office with a list of properties being referred for possible foreclosure. The list will be updated on a quarterly basis and will include properties which are selected pursuant to Code Compliance Division's procedures, focusing on properties with persistent code violations, significant deterioration, or excessive calls for service for code and/or police response.

In order to be referred for foreclosure action to the City Attorney's Office, the subject property must meet the following criteria:

- The property is non-homestead property; and
- Code violations persist and no recent efforts have been made for the property to be brought into compliance; and
- Liens exceeding \$7,500.00 were recorded against the property more than three months before referral to the City Attorney's Office

The City Attorney's Office will review each of the referred properties and file foreclosure actions in cases in which the City of Fort Lauderdale has a meritorious claim.

Upon completion of the foreclosure action and the entry of a final judgment of foreclosure, the court directs the Clerk of Circuit Court to sell the property at a public sale. The City Attorney's Office will bid on the property up to the amount of the City's liens or the value of the property. If the City is the successful bidder, the City may do one of the following: cure the violations and maintain the property, demolish the structure and repurpose the land, or sell the property. If the property is sold to a third party bidder, the City will receive payment against or up to the amount of the Final Judgment of Foreclosure as entered by the court. Under certain circumstances, there may be an opportunity for the City to seek a deficiency judgment against the prior property owner/defendant, which is also encompassed in this authorization.

Resource Impact

The fiscal impact associated with this action would initially be costs associated with the foreclosure action, which include but are not limited to the following: title searches, court filing fees, service of process, publication, appointment of guardian ad litem, and foreclosure sale fees. The precise sums cannot be determined at this time, but will likely range from \$2,500 to \$5,000 per case. Funds are available in the FY2017 Budget in the account listed below.

| Funds available as of February 16, 2017 | | | | | |
|---|--------------------------|---|----------------------------------|-------------------------------------|--------|
| ACCOUNT NUMBER | INDEX NAME (Program) | CHARACTER CODE/ SUB-OBJECT NAME | AMENDED BUDGET (Character) | AVAILABLE BALANCE (Character) | AMOUNT |
| 001-DSD040101-3216 | COMMUNITY INSPECTIONS | SERVICES- MATERIAL/COSTS FEES PERMITS | \$292,565 | \$107,883 | |
| TOTAL ► | | | | | |

Attachments

Exhibit 1 – Resolution

Prepared By: Tania Marie Amar, Assistant City Attorney

Charter Officer: Cynthia A. Everett, City Attorney