




Code Enforcement Division
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DATE: March 24, 2009

TO: Community Development Committee

FROM: James L. Garrett Sr., Code Enforcement Manager 

RE: Lien abatement guidelines, item number 070777

Subsequent to a request to separate a property from a Code Enforcement Lien (CEB) the City Commission referred to the Community Development Committee a request to consider narrow guidelines for staff to consider the removal of CEB liens when the following conditions are met:

- The City's interest is protected by recordation against other assets.
- It is in the City's best interest to do so.

CEB liens are the result of fines levied by the board and are the property of the City. Such fines are subject to being recorded against any and all assets discovered to belong to the respondent which may include adjoining property. Respondents are provided the following avenues of appeal in a CEB case:

- A respondent may choose to appeal a decision of the CEB to the county court within 30 days of the board issuing an order.
- A respondent may choose to appeal to the CEB an affidavit of non-compliance issued by a code officer and thus prevent an unauthorized lien from occurring.
- A respondent may appear before the CEB to request a reduction or rescission of fine after complying with the terms of the Board's order.
- All documents are filed with the Clerk of the Court to alert potential owners of these actions, including a copy of the Board's order imposing a lien.
- Only after these avenues of appeal have been exhausted would it be appropriate for the property owner to appear before the commission to request a release. There has only been one known case where the owner was unable to resolve a fine due to the adjoining properties belonging to the original respondent accruing ongoing fines.

Staff has the resources to determine if a respondent has sufficient assets which can be attached to secure the City's interest after releasing any liens. As to the release of a lien being in the interest of the City it would be helpful to establish guidelines for staff to determine if this element is being met. Some suggestion could include the following:

- The release would result in the infill of low or moderate housing.
- The release would aid in the realization of a commission directive such as the removal of a blighted condition from the neighborhood.
- The release would make the property available for revitalization of a neighborhood commercial district.

Staff is currently authorized to enter into stipulations of agreement that establish parameters for compliance with notice of violation. A stipulation could be adapted to remove a lien and with commission approval staff could submit such a stipulation on the consent agenda for commission approval or act independently to implement. I might suggest the option of consent agenda which, in my estimation, provides a form of commission review and provides staff broader flexibility to work with citizens to find remedies that might be missed if an attempt to cover every possible scenario were made.