



## Legislation Text

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**File #:** 210111., **Version:** 2

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### **Request To Release Lien 425 NE 3<sup>rd</sup> Street (B)**

This item is a request for the City Commission to consider a lien reduction or rescission for 425 NE 3<sup>rd</sup> St. The property was previously found in violation of various City ordinances dating back to 1996. Four liens were placed on the property in 2005 and as a result the property has accumulated fines of approximately \$1,108,000.

In December of 2020, the City of Gainesville initiated steps to demolish the house consistent with the City's dangerous building and hazardous land code, and prepared to initiate foreclosure proceedings against the property. Subsequent to these actions, the owner and potential buyer entered into a contract for sale. The potential buyer is seeking a release of the City's liens on the property as a condition of the closing.

The buyer is obtaining a Fannie Mae Homestyle Renovation Loan in the amount of \$486,076 to purchase and renovate the property. Per the mortgage document, the renovation portion of the loan is set at \$320,159. The purchase and sale agreement for the house and property is \$191,500.

With authorization from the existing owners, the potential buyer, acting as agent for the current property owner, developed renovation plans and has applied for and obtained a Certificate of Appropriateness from the Historic Preservation Board (5-4-21) as well as obtained the necessary building permits (6-28-21) to complete the renovation work. The buyer has also paid to have the property cleared of vegetative overgrowth.

At the Special Magistrate hearing on June 30, 2021, the Magistrate recommended a full rescission of the fines and release of the liens at the hearing based on the testimony provided by the buyer and others regarding the planned improvements to the property in the event the lien is rescinded.

Based on the lien total, the nature of the violations, and the length of time the violations remained unaddressed, staff does not recommend that the City Commission approve the applicant's lien reduction request without a separate performance agreement to ensure that the property is restored and renovated consistent with the representations of the buyer.

If the City Commission approves releasing the approximately \$1.1 million lien amount, staff recommends that the release is made contingent upon the execution of a performance agreement that includes the following conditions:

1. Closing on the property occur no later than September 30, 2021
2. Commencement of renovation work consistent with HP-21-36 (COA) and BP-21-03864 (Building Permit) within 30 days of the property closing and completion of work within 180 days from commencement of the renovation work.
3. Buyer shall occupy the property as their principal residence within 180 days from the completion of

work and shall continue to occupy the property as their principal residence for at least one year from the date of initial occupancy.

4. The buyer shall keep the property free from code violations for the duration of the agreement.
5. The buyer shall pay \$5,000 (representing staff resources on the current settlement) and \$708.24 in recorded code enforcement lien costs, prior to release of the lien.
6. In the event that the buyer does not perform on all of the above terms, the Buyer shall pay to the City liquidated damages of \$100/day for non-compliance for the first 90 days after execution of the agreement and \$200/day after the end of the first 90 day period.
7. The agreement shall run with the land through the term.
8. The agreement shall remain in effect until the completion of the work has occurred and the buyer has occupied the property as their principal residence for a period of 1 year.

In determining the amount of the fine, if any, the Magistrate and City Commission shall consider the following factors listed in Florida Statutes Chapter 162.09(2)(b):

1. The gravity of the violation;
2. Any actions taken by the violator to correct the violation; and
3. Any previous violations committed by the violator.

The City Commission deny the applicant's request for lien rescission. Alternately, the Commission support the applicant's request contingent on the execution of aforementioned performance agreement and remittance of \$5,000 and \$708.24 in recorded code enforcement lien costs, to the City. Additionally, direct the City Attorney to draft said agreement and authorize the City Manager to sign any required lien release and performance agreement documents.

