

1. Requested Motion:

Meeting Date: Jan 3, 2012

Motion to authorize the Mayor and Town Clerk to execute a Release of Lien relating to case no. 2003-029 and case no. 2003-138 for property located at 185 Old San Carlos Boulevard.

Why the action is necessary:

Florida Law provides that code enforcement liens run in favor of the governing body and the governing body must authorize releasing of a lien.

What the action accomplishes:

2. Agenda:

- Consent
- Administrative

3. Requirement/Purpose:

- Resolution
- Ordinance
- Other

4. Submitter of Information:

- Council
- Town Staff
- Town Attorney

5. Background: In 2003, property located at 185 Old San Carlos Boulevard was cited by code enforcement for unpermitted construction and an unpermitted sign. On October 7, 2005, the Town recorded two separate code enforcement liens. The fine for case no. 2003-029 totaled \$485 and fine for case no. 2003-138 totaled \$485. Town records indicate that both fines have been paid in full and the property was brought into compliance. For some reason, a Release of Lien was not recorded after the fines were paid. The property was recently sold to a new owner and the title company is requesting a release of lien to clear title to the property. Copies of the liens are attached.

6. Alternative Action:

7. Management Recommendations:

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
						

9. Council Action:

- Approved
- Denied
- Deferred
- Other



INSTR # 5741630
 Official Records BK 03868 PG 0526
 RECORDED 6/3/11/2020 08:22:10 AM
 CHARLIE GREEN, CLERK OF COURT
 LEE COUNTY
 RECORDING FEE 19.50
 DEPUTY CLERK S. Greenwood

PARCEL #: 24-46-23-W3-0050Q.0130

4

THIS SPACE FOR RECORDING

BEFORE THE HEARING EXAMINER OF
 LEE COUNTY, FLORIDA IN AND FOR
 THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA :
 Petitioner, :
 vs. :
 HVAC SYSTEMS DESIGN INC. :
 Respondent :

CASE NO.: 2003-029

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on January 14, 2003, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, HVAC SYSTEMS DESIGN INC., as the responsible person or entity, to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine.

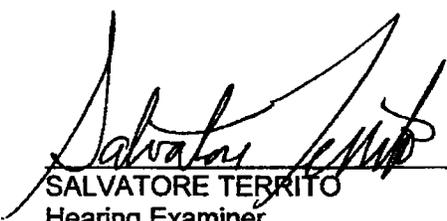
On, January 29, 2003, the Hearing Examiner received competent evidence that the violation had not been abated in accord with the above Order, and therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of a new canopy/awning installed without the required permits still exists on the subject property; and
3. That the Respondent has not paid the prosecution costs in the amount of **\$285.00** which are due and owing to the Petitioner per Chapter 162, Florida Statutes.

It is ORDERED that Respondent pay a fine of **\$50.00 per day**, beginning on **January 29, 2003**, and continuing for each and every day that the aforesaid violation exists and continues on the property located, as reported by the Petitioner, at 185 Old San Carlos Blvd..

Upon recording in the public records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including but not limited to the property described on the attached exhibit, and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon said recording, pursuant to Chapter 162, Florida Statutes.

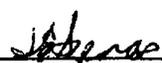
DONE AND ORDERED at 1500 Monroe Street, Second Floor, Fort Myers, Lee County, Florida on January 30, 2003.


SALVATORE TERRITO
Hearing Examiner
Lee County, Florida in and for
the Town of Fort Myers Beach, Florida

APPEAL: An aggrieved party may appeal an Order of the Hearing Examiner of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Hearing Examiner. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by U.S. Mail to HVAC Systems Design, Inc., 185 Old San Carlos Blvd., Ft. Myers Beach, FL 33931, and to Dick Roosa, Esquire, Town of Fort Myers Beach, 2523 Estero Blvd., Ft. Myers Beach, FL 33931; and by interoffice mail or hand delivery to Lee County Development Services Division (Code Enforcement), on January 31, 2003.


SECRETARY
LEE COUNTY HEARING EXAMINER'S OFFICE
P.O. BOX 398
FT. MYERS, FL 33902-0398

FOR RECORDING ONLY

I hereby certify that as an agent of the Lee County Development Services Division, the Office to whose custody the original is entrusted, this is a true and correct copy of the document maintained on file in the Code Enforcement records of Lee County, Florida.

A handwritten signature in black ink, appearing to read 'Fred Roenigh', is written over a horizontal line.

Fred Roenigh
Code Enforcement Officer
Development Services Division

Please return to: Richard Roosa, Attorney
Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers Beach, FL 33932

2003-029

PARCEL #: 24-46-23-W3-0050A.0130

THIS SPACE FOR RECORDING

BEFORE THE HEARING EXAMINER FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA	:	
Petitioner,	:	CASE NO.: 2003-029
vs.	:	
HVAC SYSTEMS DESIGN INC.	:	
Respondent	:	

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on JANUARY 14, 2003, after which an Order was entered which found that a violation existed on the subject property located, as reported by the Petitioner, and required the Respondent, HVAC SYSTEMS DESIGN INC., as the responsible person or entity, to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine.

On OCTOBER 7, 2005, the Hearing Examiner received competent evidence that the violation had been abated and the prosecution costs were paid, and therefore finds and decides:

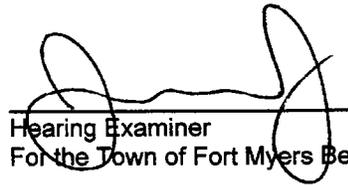
1. That the Respondent complied with the above-noted Order ; and
2. That the violation on the subject property is abated; and
3. That Respondent paid fine and prosecution costs in the amount of \$485.00.

Respondent advised that because the abatement of the violation occurred after the time allowed in the initial Notice Of Code Violation, any similar violation in the future by the same property owner on property located in Lee County may be treated as a "repeat offense" for fine assessment purposes.

oac.cpd.10/12/05

If recorded, this Order shall constitute an acknowledgment of the abatement of the cited violation and will not constitute the imposition of a fine or lien against the Respondent pursuant to the Order dated September 14, 2005.

DONE AND ORDERED at 1500 Monroe Street, Second Floor, Fort Myers, Lee County, Florida on October 12, 2005.


Hearing Examiner
For the Town of Fort Myers Beach

A copy of this Order has been furnished by regular U.S. Mail to Respondent, and to Anne Dalton, Esquire, Town of Fort Myers Beach, 2523 Estero Boulevard, Fort Myers Beach, FL 33931; and by interoffice mail or hand delivery to the Lee County Development Services Division (Code Enforcement), on October 12, 2005 .

APPEAL: An aggrieved party may appeal an Order of the Hearing Examiner of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Hearing Examiner. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.



INSTR # 5890346
 Official Records BK 03991 PG 2090
 RECORDED 07/14/2003 04:26:13 PM
 CHARLIE GREEN, CLERK OF COURT
 LEE COUNTY
 RECORDING FEE 19.50
 DEPUTY CLERK G Sherwood

4

PARCEL #: 24-46-23-W3-0050A.0130

THIS SPACE FOR RECORDING

BEFORE THE HEARING EXAMINER PRO TEMPORE OF
 LEE COUNTY, FLORIDA IN AND FOR
 THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA	:	
Petitioner,	:	CASE NO.: <u>2003-138</u>
vs.	:	
HVAC SYSTEM DESIGN, INC.	:	
Respondent	:	

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on May 13, 2003, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, as the responsible person or entity, to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine.

On, June 26, 2003, the Hearing Examiner received competent evidence that the violation had not been abated in accord with the above Order, and therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of Sign erected without permit still exists on the subject property; and.
3. That the Respondent has not paid the prosecution costs in the amount of \$285.00 which are due and owing to the Petitioner per Chapter 162, Florida Statutes.

It is ORDERED that Respondent pay a fine of **\$50.00 per day, beginning on June 11, 2003,** and continuing for each and every day that the aforesaid violation exists and continues on the property located, as reported by the Petitioner, at 185 Old San Carlos Blvd., Fort Myers Beach, Florida 33931.

Upon recording in the public records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including but not limited to the property described on the attached exhibit, and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon said recording, pursuant to Chapter 162, Florida Statutes.

DONE AND ORDERED at 1500 Monroe Street, Second Floor, Fort Myers, Lee County, Florida on **June 26, 2003.**

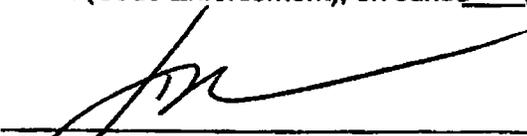


JOSEPH M. MADDEN, JR.
Hearing Examiner Pro Tempore
Lee County, Florida in and for
the Town of Fort Myers Beach, Florida

APPEAL: An aggrieved party may appeal an Order of the Hearing Examiner of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Hearing Examiner. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

CERTIFICATE OF SERVICE

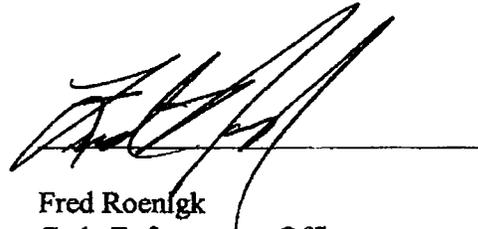
I hereby certify that a copy of the foregoing has been sent by U.S. Mail to HVAC System Design, Inc., 185 Old San Carlos Blvd., Fort Myers Beach, Florida 33931, and to Dick Roosa, Esquire, Town of Fort Myers Beach, 2523 Estero Blvd., Ft. Myers Beach, FL 33931; and by interoffice mail or hand delivery to Lee County Development Services Division (Code Enforcement), on June 27, 2003.



LEGAL SECRETARY
LEE COUNTY HEARING EXAMINER'S OFFICE
2222 SECOND STREET, SUITE F
FT. MYERS, FL 33901

FOR RECORDING ONLY

I hereby certify that as an agent of the Lee County Development Services Division, the Office to whose custody the original is entrusted, this is a true and correct copy of the document maintained on file in the Code Enforcement records of Lee County, Florida.

A handwritten signature in black ink, appearing to read 'Fred Roenlgk', is written over a horizontal line.

Fred Roenlgk
Code Enforcement Officer
Development Services Division

Please return to: Richard Roosa, Attorney
Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers Beach, FL 33932

2003-138

PARCEL #: 24-46-23-W3-0050A.0130

THIS SPACE FOR RECORDING

BEFORE THE HEARING EXAMINER FOR THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA	:	
Petitioner,	:	CASE NO.: 2003-138
vs.	:	
HVAC SYSTEMS DESIGN INC.	:	
Respondent	:	

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on JUNE 23, 2003, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, HVAC SYSTEMS DESIGN INC., as the responsible person or entity, to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine.

On October 7, 2005, the Hearing Examiner received competent evidence that the violation had been abated and the prosecution costs were paid, and therefore finds and decides:

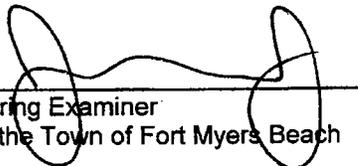
1. That the Respondent complied with the above-noted Order; and
2. That the violation on the subject property is abated; and
3. That Respondent paid fine and prosecution costs in the amount of \$485.00.

Respondent advised that because the abatement of the violation occurred after the time allowed in the initial Notice Of Code Violation, any similar violation in the future by the same property owner

on property located in Lee County may be treated as a "repeat offense" for fine assessment purposes.

If recorded, this Order shall constitute an acknowledgment of the abatement of the cited violation and will not constitute the imposition of a fine or lien against the Respondent pursuant to the Order dated September 14, 2005.

DONE AND ORDERED at 1500 Monroe Street, Second Floor, Fort Myers, Lee County, Florida on October 12, 2005 .


Hearing Examiner
For the Town of Fort Myers Beach

A copy of this Order has been furnished by regular U.S. Mail to Respondent, and to Anne Dalton, Esquire, Town of Fort Myers Beach, 2523 Estero Boulevard, Fort Myers Beach, FL 33931; and by hand delivery to the Lee County Development Services Division (Code Enforcement), on October 12, 2005.

APPEAL: An aggrieved party may appeal an Order of the Hearing Examiner of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Hearing Examiner. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.