

1. Requested Motion:

Meeting Date: Feb 6, 2012

Approve Release of Lien relating to Code Enforcement Case No. 2001-1045 for property located at 136 Primo Drive, Fort Myers Beach, FL upon payment of outstanding prosecution costs plus interest in the amount of \$668.55.

Why the action is necessary: The Town recorded a Code Enforcement Lien with respect to code violations on property located at 136 Primo Drive, Fort Myers Beach, FL. The property owner, at the time the violations occurred and when the lien was recorded was William Pender. The violations were abated prior to any fine accruing, but the prosecution costs in the amount of \$285.00 were never paid. The Code Enforcement statute (Chapter 162, Florida Statutes) provides that only the governing body can authorize release of a code enforcement lien. Code enforcement liens accrue interest in the same manner as court judgments. The amount of interest that has accrued since December 19, 2001 is \$383.55 making the total amount due to satisfy the lien \$668.55.

What the action accomplishes: Authorizes the Mayor and Town Clerk to execute a Release of Lien.

2. Agenda:

3. Requirement/Purpose:

4. Submitter of Information:

Consent
 Administrative

Resolution
 Ordinance
 Other

Council
 Town Staff
 Town Attorney

5. Background: On December 19, 2001, the Town recorded a Code Enforcement Lien against property located at 136 Primo Drive, Fort Myers Beach, FL. The violations were abated prior to any fines being imposed, but the property owner failed to pay the \$285.00 prosecutorial costs, so a lien was filed against the property in the amount of \$285.00. The amount of statutory interest that has accrued to date is \$383.55, making the total amount due to satisfy the lien \$668.55. A copy of the Code Enforcement Lien is attached. The subject property is in compliance and currently under contract to be sold. The attorney who is handling the closing is requesting a Release of Lien to clear title to the property.

6. Alternative Action: Do not release the lien.

7. Management Recommendations: Approve execution of a Release the Lien for the subject property.

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 # 5311380
OR BK 03542 PG 3808

RECORDED 12/19/01 08:32 AM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 19.50
DEPUTY CLERK B Thompson

PARCEL #: 19-46-24-W4.0060H.0240

THIS SPACE FOR RECORDING

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

TOWN OF FORT MYERS BEACH, FLORIDA :
Petitioner, :
vs. :
WILLIAM PENDER :
Respondent :

CASE NO.: 2001-1045

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on October 9, 2001, after which an Order was entered which found that a violation existed on the subject property located, as reported by the Petitioner, at 136 Primo, and required the Respondent, WILLIAM PENDER, 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 November 9, 2001, the Hearing Examiner received competent evidence that the violation had been abated but the prosecution costs were not paid, and therefore finds and decides:

1. That the Respondent complied with the above-noted Order by removing the inoperable/unregistered vehicle, car seat, weeds, wood, and other debris; and
2. That the violation on the subject property is abated; and
3. That the Respondent has not paid the prosecution costs in the amount of **\$285.00**, which shall become a lien on the subject property upon recording in the Public Records of Lee County.

OR BK 03542 PG 3809

Respondent is 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.

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 recording, pursuant to Chapter 162, Florida Statutes.

DONE AND ORDERED at 1500 Monroe Street, Second Floor, Fort Myers, Lee County, Florida on November 9, 2001.


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

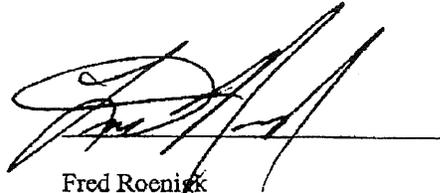
A copy of this Order has been furnished by regular U.S. Mail to the Respondent, and to Dick Roosa, Esquire, Town of Fort Myers Beach, 2523 Estero Boulevard, Fort Myers Beach, FL 33931; and by interoffice mail or hand delivery to the Lee County Development Services Division (Code Enforcement), on November 13, 2001.

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.

OR BK 03542 PG 3810

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.



Fred Roenigk
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

2001-1045

This Instrument Prepared by:
Marilyn W. Miller
Fowler White Boggs
2235 First Street
Fort Myers, FL 33901

RELEASE OF LIEN

KNOW ALL MEN BY THESE PRESENTS THAT the TOWN OF FORT MYERS BEACH, FLORIDA, in consideration of the payment of Nine Hundred Seventy and no/100 (\$668.55) Dollars, does hereby release the real property described below from those certain Code Enforcement Lien filed in Fort Myers Beach Code Enforcement Case No. 2001-1045 against William Pender recorded in Official Records Book 3542, Pages 3808-3810 in the Public Records of Lee County, Florida, and hereby consents that the same shall be released of record against the following described real property:

Lot 24, Block H, VENETIAN GARDENS, according to the plat thereof as recorded in Plat Book 6, Page 70, Public Records of Lee County, Florida

IN WITNESS WHEREOF, the Town of Fort Myers Beach, Florida has caused these presents to be signed in its name by its Mayor and attested by its Clerk this _____ day of _____, 2012.

ATTEST:

Michelle Mayher
Town Clerk

By: _____
Larry Kiker, Mayor

STATE OF FLORIDA
COUNTY OF LEE

On this day personally appeared before me Larry Kiker, Mayor of the Town of Fort Myers Beach and Michelle Mayher, Town Clerk of the Town of Fort Myers Beach to me well known to be the persons described herein and who executed the foregoing instrument and severally acknowledged before me that they executed the same for the purposes therein expressed as the act and deed of said municipal corporation.

My Commission Expires:

Notary Public, State of Florida