



Town of Fort Myers Beach

CODE ENFORCEMENT LIEN REDUCTION REQUEST APPLICATION (LDC Sec. 2-432)

A copy of the order imposing the lien must be submitted with this application. A non-refundable \$200.00 application fee will be due at the time the application is submitted.

Code Enforcement Case Number: _____ Date: _____

Date Subject Property was brought into Compliance with Town Code: _____

Reasoning for reduction (factual):

Reasoning compliance not accomplished by time lien was recorded:

Amount of reduction requested: _____

Outstanding Mortgage Information. Please include date(s) recorded and whether currently in default.

All documents or other evidence that supports reduction request must be included in the application.

Applicant Signature: _____ Date: _____

Applicant Printed Name: _____

STATE OF _____, COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ___ physical presence OR ___ online notarization, this _____ day of _____, 20___, by _____, ___ who is personally known to me OR ___ who has produced _____ as identification.

(SEAL)

Notary Public Signature

My Commission Expires:

LDC Sec. 2-432. - Procedure to obtain reduction and/or release of a code enforcement lien.

(a) Where a certified copy of an order imposing a penalty or fine for a code enforcement violation has been recorded in the public records and has become a lien against the land and/or property of the violator/property owner, such violator/property owner may apply for a release of such lien as follows:

(1) Upon full payment by the violator/property owner of the fine or penalty imposed as a result of a code enforcement action, the town manager or designee is hereby authorized to execute and record, at the property owner's expense, a release of lien.

(2) Upon request for a reduction or forgiveness of a fine or penalty that constitutes a lien resulting from a code enforcement action, the violator/property owner shall submit a written application to the town manager or designee. The application shall include the following:

- a. A copy of the order imposing a lien upon the property;
- b. The code enforcement case number;
- c. The date upon which the violator/property owner brought the subject property into compliance with the requirements of the town Code;
- d. The factual basis upon which the violator/property owner believes the application for reduction or forgiveness of the lien should be granted;
- e. The specific terms upon which the violator/property owner believes a satisfaction or release of lien should be granted;
- f. The reasons, if any, compliance was not accomplished by the violator/property owner prior to the time the order of lien was recorded;
- g. The amount of the reduction in penalty or fine requested by the violator/property owner;
- h. Information concerning any outstanding mortgages on the property, including the date such mortgage or mortgages were recorded and whether the mortgage or mortgages are currently in default;
- i. All documents or other evidence that support the applicant's request for a reduction or forgiveness of the lien, which must be included with the application at the time of submittal; and
- j. The application shall be executed under oath and sworn to in the presence of a notary public and delivered to the town manager designee.

(3) The violator/property owner shall submit, at the time of application, an application fee in the amount of \$200.00 to reimburse the town for its administrative costs associated with handling the application and recording the order imposing a penalty or fine and the requested release of lien. The application cost is non-refundable, without regard to the final disposition of the application for reduction, forgiveness and release of lien.

(4) Upon receipt of the application for release of lien and the payment provided above, the town manager, or designee, shall confirm through the code enforcement division that the violation which resulted in the order imposing the penalty or fine has been brought into full compliance.

(5) The town manager, or designee, shall then review and consider the status of the application for release of lien with respect to the following:

- a. If a property owner acquired the property after the code enforcement lien was recorded, a waiver or reduction of lien may not be granted because the lien should have been identified and satisfied by the property owner at the time of purchase of the property.
- b. If a title insurance policy was issued at the time the property was purchased and the title insurance policy failed to identify or consider the lien, a waiver or reduction in lien may not be granted. In such cases, the lien should have been discovered by the title insurer and providing a reduction or waiver would place the town in the position of indemnifying the title insurer against its losses, which losses are the result of negligent examination of title by the title insurer.
- c. A request for waiver or reduction in lien may not be granted if the town council has previously reduced the amount of the lien. This statement applies whether or not the request is received from the original applicant for reduction or from a subsequent applicant who acquired the property.

(6) If the town manager or designee determines that the request falls within any one of the above factual situations, the town manager or designee shall issue a written denial of the request for reduction or forgiveness. If the applicant desires to appeal the town manager's decision to the town council, the applicant may do so by filing a written appeal with the town manager stating the reason(s) why the town council should make an exception to its established guidelines and consider a reduction or forgiveness of the lien. Upon filing of a proper appeal, the town manager shall present the information to the town council at a regular meeting for their consideration and final determination.

(7) If the town manager or designee determines that the request does not fall within any of the above factual situations and therefore qualifies for possible reduction or forgiveness, the town manager or designee shall review the request further. The town manager or designee, in formulating a recommendation on whether to reduce the amount of the lien or forgive the lien entirely, shall consider the following factors:

- a. The gravity of the violation(s);
- b. The amount of time it took the violator/property owner to come into compliance;
- c. The accrued amount of the code enforcement lien as compared to the market value of the property;
- d. Whether there is a prior recorded mortgage on the property and, if so, whether such mortgage is in default and/or whether the principal amount of the mortgage is of such a magnitude that it would not be practical for the town to institute a lien foreclosure action;
- e. Any previous code violation(s) of applicant/owner;
- f. Consideration for the future or proposed use of the property for public purpose; and
- g. The number and status of all other properties owned by the applicant/owner in Lee County, Florida.

(8) The town manager or designee shall place the application for satisfaction or release of lien upon the agenda of a regularly scheduled town council meeting. The town council may take action based solely upon the sworn application, recommendation of the town manager or designee and the applicant shall

have opportunity to address the town council as to the factors he or she believes warrant reduction or waiver of lien in considering the application for satisfaction or release of lien.

(9) The town council may reduce the amount of the lien, waive the full amount of the lien or continue the lien in its full amount and may accept, modify or reject the recommendations of the town manager or designee.

(10) Town council approval of a reduction in the amount of the lien shall be contingent upon payment in full of the reduced amount within 30 days of the town council approval date. If the reduced amount is not paid in full within the 30-day period, the reduction shall be come null and void and the full amount of the lien shall be due and payable.

(11) When a lien is satisfied as a result of full payment, reduced payment or waiver as ordered by the town council, the town shall record the satisfaction/release of lien in the public records of Lee County, Florida and provide a copy to the property owner.