

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: 2011-089

1. Requested Motion:

Meeting Date: 9/06/11

Approve Release of Lien relating to Code Enforcement Case No. CE 10-0116 for property located at 7831 Buccaneer Dr., Fort Myers Beach, FL upon payment to the Town of a reduced fine in the amount of \$1,500.00 and with the understanding that the purchaser of the property will obtain a building permit within thirty (30) days of taking title to the property and will diligently pursue completion of the residence.

Why the action is necessary: The Town recorded a Code Enforcement Lien with respect to code violations on property located at 7831 Buccaneer Dr., Fort Myers Beach, FL. The property owners, at the time the violations occurred and when the lien was recorded were James and Joy Williamson. Those owners are deceased and the personal representative of the estate has a contract to sell the property, but needs to obtain a release of lien in order to convey clear title. The Code Enforcement statute (Chapter 162, Florida Statutes) provides that only the governing body can compromise and release a code enforcement lien. The property is not currently in compliance and the fine totals \$34,350.00.

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

2. Agenda:

☐ Consent
☒ Administrative

3. Requirement/Purpose:

☐ Resolution
☐ Ordinance
☒ Other

4. Submitter of Information:

☐ Council
☐ Town Staff
☒ Town Attorney

5. Background: The Town recorded a Code Enforcement Lien against property located at 7831 Buccaneer Drive, Fort Myers Beach, FL for abandoned construction. James and Joy Williamson, the owners who commenced the construction in 2007, are now deceased and the personal representative of the estate has the property under contract to be sold, but needs to clear title by obtaining a release of lien. Apparently the contractor the Williamson's hired to build the home defaulted and the home is approximately eight-five percent (85%) complete. James Williamson died in October, 2009 and Joy Williamson died in September 2010. The property is under contract to be sold and the prospective purchasers have met with the Building Official and plan to complete the construction. The attorney for the personal representative is requesting a reduction in the fine and a Release of Lien for the property. A copy of the Code Enforcement Lien and correspondence from the personal representative's attorney is attached. The property owners reimbursed the Town on 11/8/10 in the amount of \$2,259.80 for hard costs incurred by the Town to clean up and secure the property. The subject property has not yet been brought into compliance and the fine currently is \$34,350.00

6. Alternative Action: Do not release the lien.

7. Management Recommendations: Release the lien upon payment of a reduced fine in the amount of \$1,500.00. The reduction is conditioned upon the purchaser obtaining and diligently pursuing completion of the construction. The building permit must be obtained within thirty (30) days of the date the purchaser takes title to the property.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

9. Council Action:

☐ Approved ☐ Denied ☐ Deferred ☐ Other

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 One Thousand Five Hundred and no/100 (\$1,500.00) Dollars, does hereby release the real property described below from that certain Code Enforcement Order and Lien filed in Fort Myers Beach Code Enforcement Case No. CE10-00116 against James Williamson and Joy Williamson, recorded in Instrument No. 2011000001085 in the Public Records of Lee County, Florida, and hereby consents that the same shall be released of record against the real property described below:

Lot 2, Block 1, Unit No. 1, LAGUNA SHORES, as recorded in Plat Book 9, PageS 29-30, 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.

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.

Dated this ____ day of _____, 2011.

My Commission Expires:

Notary Public, State of Florida

CHARLES R. MEADOR, JR.
ATTORNEY AT LAW

E-MAIL
CRMEADOR@AOL.COM

LAW OFFICES
CHARLES R. MEADOR, JR., P.A.
2085 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931

TELEPHONE 463-6619
FACSIMILE 463-6454
AREA CODE 239

TOLL FREE
1-800-741-6619

August 17, 2011

Marilyn W. Miller, Esquire
Fowler, White, Boggs, P.A.
P.O. Box 1567
Fort Myers, FL 33902

Via e-mail: marilyn.miller@fowlerwhite.com
and regular U.S. mail

Re: ESTATE OF JOY PAMELA JUNE
WILLIAMSON TO STERLACCI - Lot 2,
Block 1, Unit No. 1, Laguna Shores
Strap No. 03-47-24-W4-00101.0020
Town of Fort Myers Beach Code Enforcement
Case No. 10-0116

Dear Ms. Miller:

Please accept this letter as my solicitation on behalf of my client, Thomas E. Moorey, Esquire, as Personal Representative of the Estate of Joy Pamela June Williamson, Deceased, for Mitigation from the Town Council of the Town Fort Myers Beach in connection with the above-referenced Code Enforcement matter wherein fines of \$150.00 per day have been accruing against the property located at 7831 Buccaneer Drive, Fort Myers Beach, FL since December 21, 2010.

In 2007 James and Joy Williamson commenced construction of a home on the subject property and, through no fault of the Williamsons, their builder defaulted in his obligations and left them with an incomplete project and many unpaid sub-contractors.

In October of 2009 Mr. Williamson died at the age of 81 and Mrs. Williamson passed away only a few months later in September of 2010 at age 77.

The Williamson's children have tried to be proactive in the very complex process of managing this matter but being non-resident British nationals and not on site, trying to deal with the problems and complications involving the builder, the death of both parents and estate administrations in two separate countries has been quite daunting.

Marilyn W. Miller, Esquire
August 17, 2011
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Since the appointment of Mr. Moorey as the Personal Representative of the Williamson Estate the estate has been successful in finding a prospective purchaser for the property.

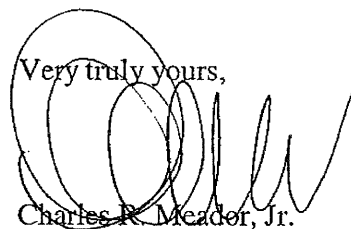
I have been advised that the prospective purchasers, Mr. and Mrs. Sterlacci, have had several very productive meetings with Mr. Ken Miller, Building Safety Services Coordinator with the Town of Fort Myers Beach and are ready to move forward immediately upon their closing of the purchase of the property to reactivate the building permits for the home and pursue the project to its completion.

The only matter preventing the Sterlacci's from moving forward is the resolution of the referenced Code Enforcement matter which, as a matter of title, must be brought to a conclusion prior to closing the sale and purchase.

On behalf of my client and on behalf of Mr. and Mrs. Williamson and their children I am requesting mitigation of the fine to a level which will fully compensate the Town of Fort Myers Beach for all of its costs in this matter and permit the property to be sold and the project completed as the Williamsons' originally intended.

For your reference I have attached a copy of the referenced Code Enforcement order.

If there is any other documentation which you might need in connection with this request please advise as we are hoping that this matter may be submitted to the Fort Myers Beach Town Council forthwith.

Very truly yours,

Charles R. Meador, Jr.

CRM/
Enclosures
11.108(Wil)

PARCEL #: 03-47-24-W4-00101.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA :

Petitioner,

CASE NO.: 10-0116

vs.

JAMES WILLIAMSON and JOY WILLIAMSON :
Respondent.

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on SEPTEMBER 22, 2010, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, JAMES WILLIAMSON and JOY WILLIAMSON, 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 DECEMBER 22, 2010, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Sections 6-5 still exists on the subject property.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of \$150.00 per day, beginning on December 21, 2010 and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 7831 BUCCANEER DR., Fort Myers Beach, FL 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 above-referenced property 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.

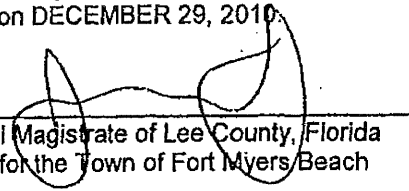
RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2523 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2523 Estero Boulevard, Fort Myers Beach, Lee County, Florida on DECEMBER 29, 2010.


Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

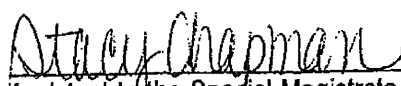
REHEARING: If the property owner disagrees with the Special Magistrate's finding herein that the violation has not been properly abated, the property owner has twenty (20) days from the date of this Order to request a rehearing. The request must be made in writing to the Town of Fort Myers Beach Code Enforcement Office and will be scheduled, if possible, on the next regularly scheduled hearing. Evidence and testimony presented at the hearing will be limited to the facts and arguments necessary to prove the violation was abated in accordance with the requirements of the Order finding the first violation. Any Order resulting from the rehearing may be appealed to the Circuit Court as set out below.

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach. The appeal must be limited to appellate review of the record created before the Special Magistrate and filed within thirty (30) days of the execution of the Order to be appealed.

CERTIFICATE OF SERVICE

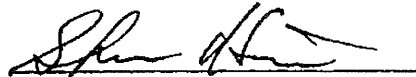
I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

James and Joy Williamson
Near Bedale NR
DL81JL Yorkshire, UK


Assistant to the Special Magistrate for the Town of
Fort Myers Beach, Florida

FOR RECORDING ONLY

I HEREBY CERTIFY that as agent of the Town of Fort Myers Beach Code Enforcement 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 the Town of Fort Myers Beach, Florida.

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

Shane Hidle
Code Enforcement Officer
Town of Fort Myers Beach