

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: 2012-034

1. Requested Motion:

Meeting Date: 5/7/12

Approve Release of Lien relating to Code Enforcement Case No. 2008-005f for property located at 4 Glenview Manor Drive, Fort Myers Beach, FL.

Why the action is necessary: The Town recorded a Code Enforcement Lien with respect to code violations consisting of violation of the short term rental regulations on property located at 4 Glenview Manor Drive, Fort Myers Beach, FL. The Code Enforcement Order states that the owner was to pay to the Town the sum of \$2,500.00 by September 18, 2008 or a fine of \$50.00 per day would begin to accrue thereafter for each day that the fine remains outstanding. The \$2,500.00 has not been paid. The property is encumbered by a mortgage and the owner has been trying to sell the property but cannot do so until the lien is released. The owner has requested to appear before Town Council seeking a reduction in the fine and a release of lien. The property is in compliance and the fine totals \$68,900.00.

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:

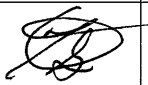
☐ Council
☐ Town Staff
☒ Town Attorney

5. Background: The Town recorded a Code Enforcement Lien against Glenview #4 LLC and Clay Cason as the result of a code violation for property located at 4 Glenview Manor Drive, Fort Myers Beach, FL. The subject property is in compliance, but there remains outstanding a fine in the amount of \$68,900.00. The Code Enforcement statute (Chapter 162, Florida Statutes) provides that only the governing body can compromise and release a code enforcement lien. The owner is requesting a reduction in the fine and a Release of Lien for the property so he can sell the property. There is a prior mortgage in the original principal amount of \$450,000. Since the mortgage was recorded prior to the code enforcement lien, the mortgage has priority and if the mortgage is foreclosed, the code enforcement lien will no longer be valid. A copy of property information and the Code Enforcement Lien is attached.

6. Alternative Action:

7. Management Recommendations:

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 _____ Dollars, does hereby release the real property described below from those certain Code Enforcement Order and Lien filed in Fort Myers Beach Code Enforcement Case No. 2008-005f against Glenview #4 LLC and Clay Cason recorded on October 21, 2008 in Instrument No. 2008000277908 and Instrument Number 2008000277939 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:

From a concrete monument marking the Northernmost corner of Lot 1, Block B. Holiday Heights, according to the Plat thereof in Plat Book 9, Page 58, Public Records of Lee County, Florida, run North 38° 25' 30" East for 50.2 feet to a point of the Northeasterly line of Williams Drive as shown on said plat of Holiday Heights; thence North 49° 56' 30" West along said Northeasterly line and a prolongation thereof for 52.02 feet to a point on the Northwestern boundary of lands conveyed in deed in Deed Book 218, Page 495, Public Records of Lee County, Florida; thence North 38° 25' 30" East and along the Northwestern side of a road easement 20 feet wide for 270 feet; thence South 49° 56' 30" East parallel to the Northeasterly line of said Holiday Heights Subdivision for 20 feet to the point of beginning of the lands herein described; thence North 38° 25' 30" East along the Southeasterly side of a road easement for 90 feet; thence South 49° 56' 30" East for 103.5 feet to the waters of a boat canal; thence South 38° 25' 30" West along said boat canal for 90 feet; thence North 49° 56' 30" West for 103.5 feet to the point of beginning; together with an easement of 20 feet for roadway purposes over and along a road easement extending from Williams Drive of said Holiday Heights Subdivision to the Northeasterly boundary of the lands herein described along the line hereinabove mentioned.

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



Lee County Property Appraiser

Tax Year **2011**
[Next Lower Parcel Number](#) [Next Higher Parcel Number](#) [Tangible Accounts](#) [Tax Estimator](#) [Tax Bills](#) [Print](#)

Property Data for Parcel 28-46-24-W4-00005.0040

Owner Of Record

GLENVIEW #4 LLC
1305 DARIEN CLUB DR
DARIEN IL 60561

Site Address

4 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

Legal Description

BEG N NR.MOST COR LOT 1
BLK B HOLIDAY HTS.TH N 38
DEG 25 MIN 30 SEC E FOR

Classification / DOR Code

SINGLE FAMILY RESIDENTIAL / 01

[Tax Map Viewer]

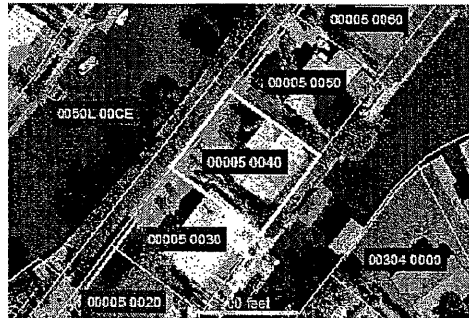


Image of Structure



[Pictometry Aerial Viewer]

◀ Photo Date March of 2006 ▶



Property Values (2011 Tax Roll)

Exemptions

Attributes

		Homestead / Additional	0 / 0	Land Units Of Measure	UT
Just	399,890	Widow / Widower	0 / 0	Units	1.00
Assessed	399,890	Disability	0	Frontage	0
Portability Applied	0	Wholly	0	Depth	0
Cap Assessed	399,890	Senior	0	Total Number of Buildings	1
Taxable	399,890	Agriculture	0	Total Bedrooms / Bathrooms	2 / 2.0
Cap Difference	0			Total Buildings Sq Ft	3,847
				1st Year Building on Tax Roll	1968
				Historic District	No



Taxing Authorities



Sales / Transactions



Building/Construction Permit Data



Parcel Numbering History



Solid Waste (Garbage) Roll Data



Flood and Storm Information



Appraisal Details

TRIM (proposed tax) Notices are available for the following tax years
[2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011]

[Next Lower Parcel Number](#) [Next Higher Parcel Number](#) [New Query](#) [Search Results](#) [Home](#)

PARCEL #: 28-46-24-W4-00005.0040

THIS SPACE FOR RECORDING

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

TOWN OF FORT MYERS BEACH, FLORIDA :
Petitioner, : CASE NO.: 2008-0005f
vs. :
:
GLENVIEW #4, LLC, and CLAY CASON, as :
Registered Agent :
Respondent :
_____ /

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the Lee County Special Magistrate, in and for the Town of Fort Myers Beach, at a public hearing on AUGUST 14, 2008, thereafter an Order was entered which found that a violation existed on the subject property and required the Respondent, CLAY CASON, as Registered Agent for GLENVIEW #4, as the responsible person, to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine.

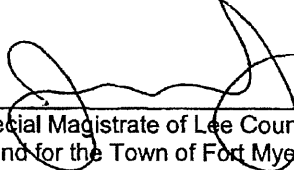
On AUGUST 14, 2008, the Special Magistrate received testimony that the violation had been abated, but that the nature of the violations and the Respondent's response to Code Enforcement efforts made the violation irreparable and irreversible; and it was ORDERED that Respondent pay to the Town of Fort Myers Beach, a fine in the amount of \$2,500.00 by SEPTEMBER 18, 2008, and \$50.00 per day, beginning on SEPTEMBER 18, 2008, and continuing for each subsequent day the fine of \$2,500.00, imposed upon Respondent remains outstanding as described in the aforesaid Order and on the attached exhibit.

On OCTOBER 16, 2008, with the Respondent, CLAY CASON, as Registered Agent for GLENVIEW #4, LLC, present, the Special Magistrate took sworn testimony which indicated that the violation remains abated, that the fine of \$2,500.00 to be paid by SEPTEMBER 18, 2008, remains outstanding, and that an additional find amount of \$50.00 per day had been accruing since SEPTEMBER 18, 2008. Upon due consideration of the testimony presented and the equities demonstrated, and the Special Magistrate being otherwise fully advised, it is

ORDERED that the \$50.00 per day additional fine be suspended, and that Respondent pay a total amount of **\$2,500.00, by 4:00 P.M. on JANUARY 14, 2009**, to the Town of Fort Myers Beach in full satisfaction of the aforementioned accrued lien and costs. In the event that the amount of **\$2,500.00** is not paid by said date, the entire lien of \$2,500.00, plus \$50.00 per day beginning on SEPTEMBER 18, 2008, and all administrative costs will be required for satisfaction.

Payment of costs: checks should be made payable to Town of Fort Myers Beach and mailed to the Town of Fort Myers Beach (Code Enforcement), 2523 Estero Boulevard, Fort Myers Beach, Florida 33931, or made in person at the offices of the Town of Fort Myers Beach, 2523 Estero Boulevard, Fort Myers Beach, Florida 33931. Please include case number on checks.

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



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

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

REHEARING: Either the town or the violator may request a rehearing of the decision of the special magistrate. A request for rehearing will be made, in writing, and will be filed with the clerk within ten business days of the Special Magistrate's execution of the Order. A request for rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and his/her decision will be made at a public hearing. If the Special Magistrate determines that he or she will grant a rehearing, he/she may:

Schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or
Modify or reverse the prior order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a question of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the order of the Special Magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the special magistrate has finally disposed of the request for rehearing by denying the same, or otherwise.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by U.S. Mail to RESPONDENT, CLAY CASON for GLENVIEW #4, LLC, 235 Tropical Shores Way, Ft. Myers Beach, FL 33931, and to ANNE DALTON, Esquire, Town of Fort Myers Beach, 2523 Estero Blvd., Fort Myers Beach, FL 33931; and by hand delivery to Town of Fort Myers Beach Code Enforcement, on October 17, 2008.



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

INSTR # 2008000277939, Doc Type ORD, Pages 2, Recorded 10/21/2008 at 03:43 PM,
Charlie Green, Lee County Clerk of Circuit Court, Rec. Fee \$18.50 Deputy
Clerk ELAYDEN

INSTR # 2008000277908, Doc Type ORD, Pages 2, Recorded 10/21/2008 at 03:40 PM,
Charlie Green, Lee County Clerk of Circuit Court, Rec. Fee \$18.50 Deputy
Clerk ELAYDEN



I CERTIFY THIS DOCUMENT TO BE A
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE
CHARLIE GREEN, CLERK OF CIRCUIT COURT,
STATE OF FLORIDA, COUNTY OF LEE

☐ REDACTED COPY PER F.S. 119.071

BY: Elayden
DATED: OCT 21 2008 Deputy Clerk

PARCEL #: 28-46-24-W4-00005.0040

THIS SPACE FOR RECORDING

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

TOWN OF FORT MYERS BEACH, FLORIDA :
Petitioner, :
vs. : CASE NO.: 2008-0005f
: :
: :
GLENVIEW #4, LLC, and CLAY CASON, as :
Registered Agent :
Respondent :

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the Lee County Special Magistrate, in and for the Town of Fort Myers Beach, at a public hearing on AUGUST 14, 2008, thereafter an Order was entered which found that a violation existed on the subject property and required the Respondent, CLAY CASON, as Registered Agent for GLENVIEW #4, as the responsible person, to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine.

On AUGUST 14, 2008, the Special Magistrate received testimony that the violation had been abated, but that the nature of the violations and the Respondent's response to Code Enforcement efforts made the violation irreparable and irreversible; and it was ORDERED that Respondent pay to the Town of Fort Myers Beach, a fine in the amount of \$2,500.00 by SEPTEMBER 18, 2008, and \$50.00 per day, beginning on SEPTEMBER 18, 2008, and continuing for each subsequent day the fine of \$2,500.00, imposed upon Respondent remains outstanding as described in the aforesaid Order and on the attached exhibit.

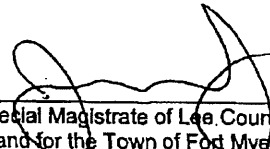
On OCTOBER 16, 2008, with the Respondent, CLAY CASON, as Registered Agent for GLENVIEW #4, LLC, present, the Special Magistrate took sworn testimony which indicated that the violation remains abated, that the fine of \$2,500.00 to be paid by SEPTEMBER 18, 2008, remains outstanding, and that an additional find amount of \$50.00 per day had been accruing since SEPTEMBER 18, 2008. Upon due consideration of the testimony presented and the equities demonstrated, and the Special Magistrate being otherwise fully advised, it is

ORDERED that the \$50.00 per day additional fine be suspended, and that Respondent pay a total amount of **\$2,500.00, by 4:00 P.M. on JANUARY 14, 2009**, to the Town of Fort Myers Beach in full satisfaction of the aforementioned accrued lien and costs. In the event that the amount of **\$2,500.00** is not paid by said date, the entire lien of \$2,500.00, plus \$50.00 per day beginning on SEPTEMBER 18, 2008, and all administrative costs will be required for satisfaction.

10/8/02 lm

Payment of costs: checks should be made payable to Town of Fort Myers Beach and mailed to the Town of Fort Myers Beach (Code Enforcement), 2523 Estero Boulevard, Fort Myers Beach, Florida 33931, or made in person at the offices of the Town of Fort Myers Beach, 2523 Estero Boulevard, Fort Myers Beach, Florida 33931. Please include case number on checks.

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


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

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

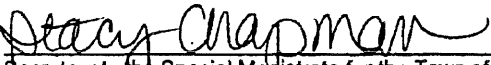
REHEARING: Either the town or the violator may request a rehearing of the decision of the special magistrate. A request for rehearing will be made, in writing, and will be filed with the clerk within ten business days of the Special Magistrate's execution of the Order. A request for rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and his/her decision will be made at a public hearing. If the Special Magistrate determines that he or she will grant a rehearing, he/she may:

Schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or
Modify or reverse the prior order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a question of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the order of the Special Magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the special magistrate has finally disposed of the request for rehearing by denying the same, or otherwise.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by U.S. Mail to RESPONDENT, CLAY CASON for GLENVIEW #4, LLC, 235 Tropical Shores Way, Ft. Myers Beach, FL 33931, and to ANNE DALTON, Esquire, Town of Fort Myers Beach, 2523 Estero Blvd., Fort Myers Beach, FL 33931; and by hand delivery to Town of Fort Myers Beach Code Enforcement, on October 17, 2008.


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

10/8/02 lm