

RESOLUTION NO. 2014 - 11

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING THE POLICIES AND PROCEDURES FOR MITIGATION OF SPECIAL MAGISTRATE AND/OR CODE ENFORCEMENT BOARD FINES AND LIENS, AS WELL AS MITIGATION OF LOT MOWING, LOT CLEARING, DEMOLITION AND UTILITY ACCOUNTS LIENS, TO INCLUDE THE CEASING ACCRUAL OF CODE ENFORCEMENT FINES; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, Ordinance No. 2006-06, which is codified in section 9-50 of the City's Code of Ordinance authorizes a Special Magistrate to preside over and determine code enforcement violations for the City; and

WHEREAS, section 9-50 also authorizes the City Manager to waive accumulated fines or settle and compromise accumulated fines to a lesser amount; and

WHEREAS, since the adoption of Ordinance No. 2006-06, staff has administered City Administrative Policy No. 2004-002 Mitigation of Fines and Liens as a guideline for governing mitigation process; and

WHEREAS, City Administration desires to streamline the process in accordance with best practice models; and

WHEREAS, City Administration has researched the best practice model for governing the mitigation of fine and lien process and recommends approval of the amended Policies and Procedures set forth in attached Exhibit A; and

WHEREAS, City Administration recommends that the policies and procedures be amended to allow suspension of fines, where eligible, for property acquired by a new owner with existing accruing code enforcement liens or fines; and

37 WHEREAS, the proposed amendment will encourage investors to acquire
38 properties with existing code enforcement liens or fines and to abate code violations and
39 to have the fines reduced to a reasonable amount; and
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41 WHEREAS, the Mayor and City Commission have determined that it is in the best
42 interest of the City to adopt the amended Policies and Procedures governing the City's
43 mitigation of code compliance fines and liens process.
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45 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY
46 COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:
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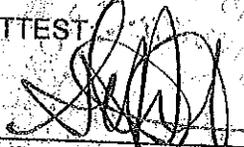
48 SECTION 1. City Commission Action. The Mayor and City Commission
49 hereby ratify and approve City Administrative Policy No. 2004-002/R6 Mitigation of Fines
50 and Liens, as may be further amended as attached in Exhibit 3
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52 SECTION 2. Effective Date. This Resolution shall take effect immediately upon
53 its passage and adoption.
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55 APPROVED AND ADOPTED this 5th day of February, 2014.
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60 JOY F. COOPER
61 MAYOR
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63 SPONSORED BY: CITY ADMINISTRATION
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65 ATTEST
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68 SHEENA JAMES, CMC
69 CITY CLERK
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72 VOTE
73 AYE/NAY
74 Mayor Cooper ✓
75 Vice Mayor Lewy ✓
76 Comm. Julian ✓
77 Comm. Lazarew ✓
78 Comm. Sanders ✓
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80 APPROVED AS TO LEGAL SUFFICIENCY AND
FORM

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78 LYNN WHITFIELD
79 CITY ATTORNEY
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EXHIBIT "A"

POLICIES AND PROCEDURES FOR MITIGATION OF FINES AND LIENS

I. PURPOSE/INTENT

The purpose of this policy is to provide a procedure for Mitigation of Special Magistrate and/or Code Enforcement Board Fines and Liens, as well as mitigation of Lot Mowing, Lot Clearing, Demolition and Utility Accounts lien(s).

II. DEFINITIONS

Lien - A claim, encumbrance, or charge on property for payment of some debt, obligation or duty. Accounts Receivables of the City in which lien rights exist to affect collection and/or a deposit is held. Examples are Utility Accounts in the owner's name, Lot Mowing and Clearing, Demolitions, Code Enforcement Board Actions, Code Enforcement Fines/Liens and Special Assessments.

Mitigation - To make less severe. Alleviation, reduction, abatement, or diminution of a penalty or punishment imposed by law.

Neighborhood Improvement Program (NIP) – assists property owners to achieve parking, roof, drainage and property maintenance improvements by offering no interest loans and other incentives.

Special Magistrate – Person who shall conduct Code Enforcement hearings pursuant to Chapter 162, Municipal Code Enforcement, of the Florida Statutes and Chapter 9, of the City's Code of Ordinances.

III. POLICY/PROCEDURES

Requests for Mitigation of Special Magistrate and/or Code Enforcement Board liens(s) shall be processed by the Development Services Department, Code Compliance Division and the recommendation may be approved or denied by the City Manager in accordance with Chapter 9, Section 9-50, of the City of Hallandale Beach's Code of Ordinances.

The process is as follows:

- 1) The property owner and/or representative shall submit a completed Mitigation Request Form (Attachment 1) including any documentation to support the Mitigation Request, to the Code Compliance Supervisor. No requests will be considered for the Mitigation process until all violations have been corrected.
- 2) If a property is acquired by a new owner with existing accruing code enforcement liens/fines, the accruing fines may be eligible for suspension as of the date of permit application submission. If the permit is issued within 60 days of the date of application, all the violations are corrected within 90 days of the date of permit issuance, and all conditions are timely met the accruing fines will be deemed ceased as of the date of permit application. The remaining procedure for requests for mitigation of Special Magistrate and/or Code Enforcement Board liens(s) will be processed as below.

- 3) The Development Services Department, Code Compliance Division will review the file and complete a Summary Form (Attachment 2) which will include the following:
 - a) Owner name, address, folio number and case number;
 - b) List of violations;
 - c) Original date cited, final order date to comply and compliance date;
 - d) Fine amount that was assessed per day and amount owed;
 - e) Homestead Status;
 - f) Reason owner requests Mitigation of Fines; and
 - g) Cost incurred by the City.

- 4) The Development Services Department, Code Compliance Division, will submit a Mitigation Memo (Attachment 3) to the City Manager to include a recommended mitigation amount, brief summary of violations and reason for recommendation, brief summary of costs incurred by the City and listing of actual costs. Recommendations will be calculated using the following Criteria:
 - a) Non-Homestead property may be reduced to actual costs or 10 % of total fine amount, whichever is greater.
 - b) Homestead property may be reduced to actual costs or 5 % of total fine amount, whichever is greater.
 - c) Participants in the Neighborhood Improvement Program (NIP) program may be reduced to costs incurred by the City and/or if mitigated amount and/or calculated costs are less than \$500.00, amount recommended will be \$500.00 to cover minimum costs.
 - d) Hardship cases such as death, illness, elderly, financial, and/or catastrophe may be reduced 100%.
 - e) Owners who have demonstrated lack of attempt to comply and/or due to severity of violation may be subject to an above standard amount of fine.

- 5) Once the City Manager approves the recommended amounts on the Mitigation Memo, an Agreement Letter (Attachment 4) is sent via U.S. regular mail to the person who submitted the request. The letter must be signed and returned with payment of the mitigated amount within (30) days for the agreement to be valid. If the agreement is not signed, the Mitigation request will not be processed. Payment can be made in cash or Certified Bank Check for the Release of Lien document to be prepared. If payment is received in the form of a personal check, the Release of Lien will be prepared after the check clears in approximately (2) weeks. A Thank-you Letter (Attachment 5) is sent to the Property Owner when payment is received. Once the Release of Lien is signed by the City Clerk and the City Manager, the original Release of Lien will be recorded in Broward County and a copy of the recorded Release of Lien will be given to the person who requested Mitigation of the fines.

- 6) Request for mitigation of Lot Mowing, Lot Clearing, Demolition and Utility Accounts lien(s) shall be processed to the City Commission.
 - a) A request for mitigation of a lien(s) before the City Commission shall be submitted to the City Manager's office in writing, describing the reasons for the request. A filing fee in the amount of \$150.00 must be paid to the City before the mitigation is processed and placed on the City Commission agenda. The

City Manager shall have the authority to waive the filing fee if the applicant demonstrates a hardship.

- b) The City Manager shall transmit the request for mitigation to the appropriate City department for the preparation of a staff report and agenda item.

IV. ADDITIONAL INFORMATION, REQUIREMENTS, AND RESPONSIBILITIES

It shall be the responsibility of the Development Services Department, Code Compliance Division, to update this Administrative Policy.