

Lien Process Review Part I - Management

- ▶ Section (2)(a) - Fines shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation. If considered irreparable or irreversible, the fine may not exceed \$5,000 per violation.
 - ▶ During the Code Board era, at times the fine imposed = \$250 per violation / per day causing extreme fine amounts to accrue.
 - ▶ Example of irreparable or irreversible violation is cutting down a protected tree without a permit.
- ▶ Section (3) - A certified copy may be recorded in the public records and shall constitute a lien against the land on which the violation exists AND upon a property owned by the violator.
 - ▶ This is called a “spreading lien”, which means that every property in that person’s name is clouded and cannot be transferred.
- ▶ Section (3) (continued) - “A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance.”
 - ▶ This section prohibits the “capping of liens”.
- ▶ Section (3) (continued) - After 3 months of filing the lien, the City may initiate foreclosure action.

State Statute 162.09 Review

Lien Management

Staff recommendation

- Recommendation based on severity of the violation.
- Most violation fall within the \$50 - \$150 range.
- Max penalty reserved for life, health, safety issues.

Special Magistrate

- Considers staff recommendation.
- Makes final determination based on State Statute 162.09(2)(b).
 - The gravity of the violation.
 - Any actions taken to try and correct the violation.
 - Prior history of the violator.

Next Actions

- Violator given time to correct violations before fines start.
- Once fines start, the violator is given the opportunity for a hearing to address the fines.
- If fines not addressed, a lien is filed.

Proposed Amendment



Establish a procedure to initiate foreclosure action on non-homesteaded properties once a fine has accumulated to \$50,000.00

\$50 fine - approximately 3 years (1000 days)
\$100 fine - approximately 1.5 years (500 days)
\$150 fine - approximately 1 year (333 days)
\$200 fine - approximately 8.5 months (250 days)
\$250 fine - approximately 7 months (200 days)



As capping is prohibited by statute, the fines must continue to accrue on owner occupied / homesteaded properties.



- Demolition liens will be set to foreclose after three (3) years of non-payment.
- Other nuisance abatement liens will be checked every three (3) years - once total due reaches \$5,000.00, foreclosure action will be taken.

Lien Process Review Part II - Reductions

Lien Types and Associated Laws

- ▶ Code Enforcement Liens - Authorized by State Statute 162
 - ▶ Imposed by the Special Magistrate
 - ▶ Have a daily fine that continues to accumulate until brought into compliance
 - ▶ Expire after 20 years
 - ▶ Does not accrue interest or penalties
- ▶ Nuisance Abatement Liens - Authorized by Charter and Code of Ordinances
 - ▶ Imposed when services are provided to a specific property to correct a nuisance condition (lot clearing, board up, demolition, etc.) and the cost for services is not repaid to the City
 - ▶ Considered a tax lien (superior to all liens but taxes)
 - ▶ Never expire
 - ▶ Accrues interest and penalties

Staff

Authority to issue Release of Lien

- For residential properties - upon payment of \$5,000.00
- For commercial properties - upon payment of \$10,000.00
- Typical time for release after payment - 2-3 weeks

Special Magistrate

Authority to issue Release of Lien

- For residential properties - upon payment of \$3,000.00
- For commercial properties - upon payment of \$7,500.00
- Typical time for release - 4-6 weeks

City Commission

- If applicant does not agree to either option, they must:
 - First be heard by the Special Magistrate.
 - The Special Magistrate's recommendation is then considered with final approval by the City Commission.
- Typical time for release - 2+ months

Code Enforcement Liens

“Fast Track” Reduction Process

Established by
City Commission
June 2016

Nuisance Abatement Liens

Current Reduction Policy

Per the “Fast Track” policy, staff has the authority to waive administration fees only.

The policy to have the reduction request heard by the City Commission has not changed considerably in a very long time.

The City Commission has consistently waived all or a portion of the interest, penalties and administration fees.

Nuisance Abatement Costs

- The actual amount charged by a vendor to do the job.
- HARD COST

Interest & Penalties

- Amount set by Ordinance.
- SOFT COSTS

Administration Fees

- Amount set by Resolution at \$100.00
- TO BE DETERMINED

ADMINISTRATION FEE DISCUSSION

- Fee was established to address the costs incurred by the City to process the case.
- Previous Commissions have refused to waive this fee.
- Previous Commissions have waived this fee in total.
- We currently retain a portion of the fee to cover the recording fees.

Proposed Amendments

All Lien Reduction Requests

The new policy will be added to the existing Rules of Procedure for the Special Magistrate, which is approved and adopted by Resolution.

- ▶ The request must be made by the owner or with written approval for a 3rd party to act on the owner's behalf.
- ▶ A copy of the deed showing ownership and date of ownership must be provided.
- ▶ If property was conveyed via Special Warranty Deed or Warranty Deed, the owner must provide proof that they attempted to have the guaranteeing party take responsibility for the debt without success.
- ▶ A complete statement as to why the City should consider their reduction request and any special circumstances that should be considered.
- ▶ A \$250 application fee is applied to all reduction requests.

Proposed Amendments



Staff's Authority

CODE ENFORCEMENT LIENS

- Amend staff's approval to include partial release of liens (spreading liens).
- For requests on properties outside of the City limits, a fee equal to 3% of the lien amount.
- For requests on properties within the City limits, applicant must follow the fast track reduction process.

NUISANCE ABATEMENT LIENS

- Amend staff's approval allow the waiver of 50% of the interest, penalties and administration fees.



Special Magistrate

CODE ENFORCEMENT LIENS

- Reduced amount may not be lower than the total administration fees.

NUISANCE ABATEMENT LIENS

- To Be Determined...

IN GENERAL

- The Special Magistrate's decision will be final.
- The applicant may appeal the Special Magistrate's decision to the City Commission.
- A \$250 appeal application fee shall apply.

Summary

- ▶ Start foreclosure proceedings timely.
 - ▶ Code enforcement liens when fines reach \$50,000.00.
 - ▶ Demolition liens at 3 years.
 - ▶ Nuisance abatement when balance due reaches \$5,000.00.
- ▶ \$250 application fee for all reduction requests.
- ▶ Add ownership requirements and financial obligations to reduction requests.
- ▶ Increase staff's authority to issue Releases of Liens.
 - ▶ Code cases to include partial waivers.
 - ▶ Nuisance abatements cases to waive 50% of soft costs for nuisance abatement liens.
- ▶ All cases not resolved by staff will be decided by the Special Magistrate.
- ▶ Applicants may appeal the Special Magistrate's decision to the City Commission.
- ▶ \$250 appeal fee shall apply.