MONROE COUNTY, FLORIDA

RESOLUTION NO.0522014

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, ADOPTING THE PROCEDURES TO BE USED AFTER A FINAL ORDER HAS BEEN RENDERED BY THE CODE COMPLIANCE SPECIAL MAGISTRATE TO INITIATE INJUNCTIVE RELIEF FOR NON-COMPLIANT PROPERTIES, FORECLOSURE AND/OR MONEY JUDGMENT ACTIONS FOR COLLECTION OF UNPAID FINES AND/OR COSTS FROM A PROPERTY OWNER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 162.09(1), Florida Statutes and Monroe County Code Section 8-31(a) give the Special Magistrate appointed to hear Code Compliance cases the authority to impose fines and costs including the cost of repairs if the County is forced to make repairs, after a finding that the property owner has violated the Monroe County Code(s); and

WHEREAS, pursuant to Section 162.09(3), Florida Statutes and Monroe County Code 8-31(c), a certified copy of an Order imposing a fine or a fine plus repair costs may be recorded in the public records and thereafter constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator; and

WHEREAS, a certified copy of the Order imposing the fines and costs becomes a lien on all real and personal property owned by the violator once recorded with the County Clerk; and

WHEREAS, the County has the authority to initiate litigation to enforce its codes and recorded liens; and

WHEREAS, the initiation of litigation may be the only incentive for some property owners to gain compliance; and

WHEREAS, the Board of County Commissioners finds it in the public’s interest to have a formalized written procedure to be used after a Final Order has been rendered by the Code Compliance Special Magistrate to initiate injunctive relief on non-compliant properties, foreclosure and/or money judgment actions for collection of unpaid fines and/or costs from a property owner;

March 19, 2014 Code Lien Procedure
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY:

Section 1: The County's formal procedure is hereby adopted as set forth in Attachment A: PROCEDURES TO BE USED AFTER A FINAL ORDER HAS BEEN RENDERED BY THE CODE COMPLIANCE SPECIAL MAGISTRATE TO INITIATE INJUNCTION RELIEF FOR NON-COMPLIANT PROPERTIES, FORECLOSURE AND/OR MONEY JUDGMENT ACTIONS FOR COLLECTION OF UNPAID FINES AND/OR COSTS FROM A PROPERTY OWNER.

Section 2: This resolution and the incorporated policies shall become effective upon adoption by the County Commission.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Monroe County, Florida, at a regular meeting of said board held on the 19th of March, 2014.

Mayor Sylvia Murphy
Mayor pro tem Danny L. Kolhage
Commissioner Heather Carruthers
Commissioner George Neugent
Commissioner David Rice

Yes
Yes
Yes
Yes
Yes

BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA

BY: Sylvia Murphy

Mayor Sylvia Murphy

(SIGNATURE)

ATTEST: AMY HEAVIN, CLERK

Deputy Clerk

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

LISA GRANGER
ASSISTANT COUNTY ATTORNEY

Date 3/13/14

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ATTACHMENT A

PROCEDURES TO BE USED AFTER A FINAL ORDER HAS BEEN RENDERED BY THE CODE COMPLIANCE SPECIAL MAGISTRATE TO INITIATE INJUNCTIVE RELIEF FOR NON-COMPLIANT PROPERTIES, FORECLOSURE AND/OR MONEY JUDGMENT ACTIONS FOR COLLECTION OF UNPAID FINES AND/OR COSTS FROM A PROPERTY OWNER

1. Special Magistrate (SM) enters a Final Order imposing a compliance date, fines and/or costs after a finding of violation of Monroe County Code(s) by property owner (violator) or approving a Stipulated Agreement with an agreed upon compliance date and fine amounts. The Final Order of SM providing the compliance date, and imposing fines and/or costs is provided to the property owner as soon as practicable. Referrals, if not made previously, are made to other agencies in appropriate circumstances.

2. The Final Order of the SM is recorded by Code Compliance (CC) as a lien by Code Compliance within 14 days after the compliance date for those cases that have not achieved compliance.

3. The Final Order of the SM is recorded as a lien by CC within 45 days after the compliance date for those cases that have achieved compliance by the compliance date but have outstanding costs in excess of $200.

4. If compliance is not achieved within 75 days of the recording of the lien, then a re-inspection of the property is completed by the Code Inspector assigned to the case. If the property is still not in compliance then a demand letter including the current amount of fines and/or costs is sent to the property owner.

5. If compliance is not achieved within 90 days of the recording of the lien and/or the lien is not satisfied, then CC will research the subject property to determine:
   i. if the subject property is homesteaded;
   ii. if the subject property is the only property owned by property owner/ violator;
   iii. what efforts, if any, the property owner has made to achieve compliance;
   iv. the amount of the lien accrued to date; and
   v. any other relevant factors, including but not limited to researching the status of the property owner, i.e. any Lis Pendens filed against the property or property owner, any pending or closed foreclosure actions, any open, pending or discharged Bankruptcy petitions.

6. CC staff shall provide a written memo or email to the County Attorney’s Office (CAY) with the results of the research outlined and requested further action.

7. The CAY will review the information provided by CC staff.

8. The CAY will move the SM per F.S. 162.09 for an Order authorizing foreclosure or a money judgment action; and,

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i. The Code Compliance Liaison (Liaison) will schedule the motion for the next available SM hearing for a Motion for approval to proceed with a foreclosure and/or money judgment action;

ii. The Liaison will mail a Notice of Hearing and Notice of Motion prepared by the Liaison and signed by the CAY to the property owner by certified mail noticing the owner of the date, time, place and the substance (collection action, foreclosure and/or money judgment and/or writ of attachment) of the motion;

iii. The Liaison will email/calendar a re-inspection request to the assigned Inspector to conduct inspection prior to the next available SM hearing;

iv. The Motion hearing is heard by SM on the specified date;

v. If SM finds foreclosure or money judgment is appropriate, the Liaison will notice the property owner of the SM’s ruling and email/calendar a re-inspection request to the assigned Inspector to conduct an inspection within 30 days of the SM ruling;

vi. CAY will seek permission from the Board of County Commissioners to file for foreclosure or money judgment in court;

vii. The assigned Code Inspector will continue to monitor the property for compliance through re-inspections every 90 days and attempts to notify the owner by a quick email letter, telephone call or demand letter every 90 days to inform them that the property is not in compliance and fines are running. The assigned Code Inspector will provide written updates to the CAY every 90 days.

9. Subsequent to the SM’s ruling on the Motion, the CAY will place an item on the Commission’s agenda seeking the Board’s direction and authorization on further enforcement and collection efforts. Potential options for litigation include seeking injunctive relief, a money judgment for the unpaid fines, foreclosure, or other relief. Potential non-litigation options include referral to another agency, allowing liens to accrue, or other relief.

10. If the recommended legal action is referral to another agency, release of lien, or allowing liens to accrue, CAY will send a written memo or email to the Director of Code Compliance outlining recommendation.

11. Once authority is granted by SM and/ or Board of County Commissioners, CC will order a title search on non-homesteaded properties, and the assigned Code Inspector will conduct a re-inspection after receipt of the title search. Litigation will commence after the title search is completed and a current re-inspection is completed. The assigned Code Inspector will continue to monitor the property for compliance through re-inspections every 90 days and attempts to contact the property owner by a quick email letter, telephone call or demand letter every 90 days that the property is not in compliance and fines are running. The assigned Inspector will provide written updates to the CAY every 90 days.

12. If the Board decides not to authorize injunction or enforcement litigation, a decision from the Board could include direction to:

i. Allow lien to remain filed and accrue interest until sale or refinancing; or

ii. Release the lien; or

iii. Request CC staff to provide a progress report on compliance efforts annually at the March BOCC meeting.

Exception – If a violation poses a serious threat to the public health, safety & welfare then immediate permission to file an action for an inspection warrant, injunction and/or demolition may be sought with BOCC direction.

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