

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: May 21, 2008

Division: Growth Management

Bulk Item: Yes No

Department: Code Enforcement

Staff Contact Person: Ronda Norman

AGENDA ITEM WORDING:

Approval of a resolution by the Monroe County Board of Commissioners setting a minimum percentage that will be accepted to settle fines and costs imposed in Code Enforcement cases.

ITEM BACKGROUND:

Historically the settlement amount of Code Enforcement liens that go before the Board for approval have been greatly reduced or dismissed. During 2007 Code Enforcement imposed thirty three (33) liens in the amount of \$864,070.13 but collected \$69, 954.33 or 8.1% of that total. Staff is requesting that the Board uphold the amount of the liens brought before them by accepting a minimum of no less than 85% of accrued fines and costs in the settlement of cases. The approval of this resolution will help offset the cost of prosecuting cases as well as act as an incentive for the property owners to adhere to the requirements of Monroe County Code.

PREVIOUS RELEVANT BOCC ACTION: N/A

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval.

TOTAL COST: _____

BUDGETED: Yes No

COST TO COUNTY: _____

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Atty OMB/Purchasing Risk Management

DOCUMENTATION: Included Not Required

DISPOSITION: _____

AGENDA ITEM # _____

MEMORANDUM
MONROE COUNTY GROWTH MANAGEMENT DIVISION

We strive to be caring, professional and fair

To: Debbie Frederick, Acting County Administrator

From: Andrew Omer Trivette
Growth Management Division Director

Date: Wednesday April 30, 2008

RE: Code Enforcement Fines and Liens Settlement Cap



The intention of this memo is to provide additional background for the attached resolution establishing a maximum reduction for fines and liens levied as a result of a non-compliant Code Enforcement case.

The Monroe County Code Enforcement Department works diligently to ensure code compliance throughout Monroe County. In the recent past the Department's staffing level has been reduced from 13 total inspectors to our current staffing level of six (6). These six (6) inspectors are currently handling a case load which exceeds 6,000 open cases for the 115 miles of jurisdiction. That equates to 1,000 cases per inspector, each cases demanding an average of eight (8) hours to bring to compliance or to hearing if compliance is not reached.

The Department's goal is compliance and we will do all we can to assist an applicant in reaching that goal. However, in rare instances compliance cannot be reached. This can occur for a multitude of reasons. Cases can be brought into compliance at any point in the enforcement process beginning with the initial notice of violation through the potential hearing with the special magistrate. The special magistrate may impose fines and or liens on an applicant or their property if compliance is not reached in a timely manner. An applicant on average will have at least three (3) months to nine (9) months to comply voluntarily prior to the hearing.

The amount of the fine or lien varies and typically depends greatly on the effort to date toward compliance by the applicant as well as the nature of the violation which is outstanding. These fines are usually assessed daily and run until compliance is verified by an inspector. The Division relies on these fines and liens as a revenue stream to supplement the cost of operation including the cost of case management and prosecution which can be quite costly.

Last year, out of over 5,000 cases, only 33 cases were subjected to fines and liens. When an applicant is found in compliance they have the opportunity to negotiate the payment of and monies due with the County Attorney who proposes the settlement to the BOCC for approval. The 33 cases which rendered payment had a total amount due of \$864,070.13. However, following negotiation and BOCC approval the actual amount collected totaled \$69,954.33 which is approximately eight (8%) percent. Each case had an average reduction of 75% from the original amount due.

The Division is requesting that the BOCC stipulate through the attached resolution that these fines and liens must be satisfied for no less than 85% of the total amount due. This will continue to grant some flexibility for the County Attorney to negotiate a fair and equitable settlement without severely crippling this potentially viable revenue stream. The attached table documents actual revenues realized last year from fines and liens paid versus potential revenue if a settlement cap is established.

Summary of Data

Code Enforcement Fines January 2007-2008

| Number of Cases | Total Fines Due | Amount Collected | Amount Deferred | Percent Reduction | Percent Collected | Avg Percent Reduction per Case | Avg Percent Collected per Case |
|--------------------------|-----------------|---------------------|-----------------|-------------------|-------------------|--------------------------------|--------------------------------|
| 33 | \$864,070.13 | \$69,954.33 | \$794,115.80 | 91.90% | 8.10% | 75.83% | 24.17% |
| Potential Revenue | \$864,070.13 | \$172,814.03 | \$691,256.10 | 80.00% | 20.00% | Required Cap | |
| Potential Revenue | \$864,070.13 | \$345,628.05 | \$518,442.08 | 60.00% | 40.00% | | |
| Potential Revenue | \$864,070.13 | \$518,442.08 | \$345,628.05 | 40.00% | 60.00% | | |
| Potential Revenue | \$864,070.13 | \$734,459.61 | \$129,610.52 | 15.00% | 85.00% | | |

RESOLUTION NO. - 2008

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, SETTING A MINIMUM PERCENTAGE THAT WILL BE ACCEPTED TO SETTLE FINES AND COSTS IMPOSED IN CODE ENFORCEMENT CASES; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 162.09(1), Florida Statutes, and Monroe County Code Section 6.3-7 gives the special master appointed to hear Code Enforcement cases the authority to impose fines after a finding that the property owner has violated the Monroe County Code and that the property owner thereafter has not corrected the violation(s); and

WHEREAS, under Section 162.09(3), Florida Statutes, and Monroe County Code Section 6.3-5, if the County prevails in prosecuting a case before the special master, the County is also entitled to recover all costs incurred in prosecuting the case; and

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

WHEREAS, thereafter, the County has the authority to initiate litigation for foreclosure of the lien or for a money judgment; and

WHEREAS, in the alternative, the County has the ability to enter into an agreement with the property owner to settle the matter on such terms and conditions as the parties deem mutually acceptable, in order to resolve the matter short of litigation; and

WHEREAS, the average cost of investigating and prosecuting a Code Enforcement case is at least \$1,101.43, and the Code Enforcement Department projects that 1,200 cases will be brought before the special master in the current fiscal year, for a total projected cost of approximately \$1.2 million; and

WHEREAS, it is appropriate to defray the majority if not all of the cost through the collection of fines and costs from the actual property owners cited for the violations; and

WHEREAS, it is advantageous for the County not to mitigate the fines and costs by a significant amount at time of settlement, so that the fines and costs will serve as a deterrent to other property owners not to violate the Monroe County Code, or so that the imposed fines and costs will act as an incentive for the property owners found to have violated the Code to correct the Code violations as quickly as possible.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, that:

Section 1. It is hereby declared to be the policy of the County that the County will accept a minimum of eighty-five percent (85%) of accrued fines and costs in settlement of Code Enforcement cases after said fines and costs have been imposed by the special master. The County will not settle any fines or costs prior to compliance.

Section 2. Any resolutions concerning the policy of the County with respect to the percentage of fines and costs to be accepted in settlement of Code Enforcement cases after said fines and

costs have been imposed by the Special Magistrate are hereby repealed and any contrary provisions of the Monroe County Code are hereby repealed.

Section 3. This resolution shall take effect on May _____, 2008.

Section 4. The Clerk of the Court is hereby directed to forward one (1) certified copy of this Resolution to the Division of Growth Management.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said board held on the _____ of May, 2008.

| | |
|---|-------|
| Mayor Charles "Sonny" McCoy, District 3 | _____ |
| Commissioner Dixie Spehar, District 1 | _____ |
| Commissioner George Neugent, District 2 | _____ |
| Commissioner Mario Di Gennaro, District 4 | _____ |
| Commissioner Sylvia Murphy, District 5 | _____ |

(Seal)

Attest: DANNY L. KOLHAGE, Clerk

By: _____
Deputy Clerk

BOARD OF COUNTY
COMMISSIONERS OF
MONROE COUNTY, FLORIDA

BY: _____
Mayor Charles "Sonny" McCoy

MONROE COUNTY ATTORNEY
 APPROVED AS TO FORM:
Cynthia L. Hall

 CYNTHIA L. HALL
 ASSISTANT COUNTY ATTORNEY
 Date 5-7-2008