



Pinellas County

Staff Report

File #: 20-1510A, **Version:** 1

Subject:

Ordinance amendment addressing capping of Code Enforcement liens. (Companion to Items Nos. 36, 38, & 39)

Recommended Action:

Approval of the ordinance amendment addressing the capping of liens authorizing the Code Enforcement Division (CED) to partially forgive existing liens to ensure proportionality between code compliance efforts and curtailing excessive liens.

- The County has over 500 properties with lien amounts that far exceed the value of the respective property. The inflated value of these liens is approximately three hundred million dollars.
- This ordinance, when coupled with the proposed resolution to authorize partial lien forgiveness will assist the County in addressing disproportionate liens and align our practices with current case law and national standards.
- Under current practices there are no lien caps, which means if the lien is not addressed in a timely manner, the lien value with its per day accrual amounts can grow to exceed the value of the property and thereby discourage any potential reinvestment in the property.
- More specifically, the ordinance authorizes capping of liens that exceed twenty thousand dollars per violation when a property is being utilized as a single-family residence and one hundred thousand dollars per violation on a property that is not a single-family residence (i.e.: commercial properties, or properties with more than four units).
- Property owners are afforded an opportunity to further reduce liens once the property has been complied. CED's reduction settlement process uses an established and consistent methodology and thereby produces a fair and consistent offer to reduce. Reductions are subject to the specific case circumstances and vary based upon designation of property type and total number of violations per property.
- When a property owner, has extenuating personal circumstances that warrant further consideration they can request the opportunity to be heard by a committee, which may recommend additional reductions.

Strategic Plan:

Ensure Public Health, Safety and Welfare

2.1 Provide planning, Coordination, prevention, and protective services to ensure a safe and secure economy

Foster Continual Economic Growth and Vitality

4.2 Invest in communities that need the most

4.3 Catalyze redevelopment through planning and regulatory programs

Summary:

Pinellas County's Code Enforcement Division, by way of Florida Statute Chapter 162 and the Pinellas County Code of Ordinances (the code), has enforcement authority within the unincorporated areas of Pinellas County.

The proposed ordinance addresses capping Code Enforcement liens to restrict excessive lien amounts accumulating over time. Capping liens is one component of a series of ordinances and a resolution that work in unison to lawfully resolve and expedite several Code Enforcement matters including; demolition and condemnation of hazardous buildings and structures, granting the County Attorney authority to initiate litigation to foreclose on a lien and/or seek injunctions on properties previously found to be non-compliant through a quasi-judicial hearing before the Special Magistrate. As well as delegation of authority that would allow the County Attorney the opportunity to initiate litigation without having to bring each matter to the Board of County Commissioners for individual authorization.

The County's current governing ordinances regulating these matters are outdated and limit CED's ability to timely resolve lien matters as well as unsafe conditions and address excessive violations on commercial and residential properties. The complete adoption and approval of the Ordinance and companion items will provide CED with enhanced ability to lawfully and expeditiously demolish unsafe properties, reduce and foreclose liens to help promote compliance and improve the overall health, safety and welfare of our citizens.

Background Information:

In early 2018, CED was tasked by County Administration with developing and implementing improved methods to address dangerous properties and disproportionate lien values. During the analysis of our current codes and processes CED was able to identify systemic delays and impediments that can only be addressed through ordinance revisions and the requested resolution.

CED sought additional guidance from the County Attorney's Office (CAO) to seek out avenues to expedite the process. While working in partnership with the CAO, CED began actively seeking injunctions to help compel compliance through higher judicial avenues. This process was a success and put CED on a course to seek further adjudicative actions. However, injunctive relief is often met with delays that further distress our citizen complainants. The concern is the County is unable to address and/or resolve the matter, which often involves the demolition of dangerous buildings and structures.

As a representative example, CED initiated its first injunctive request in May 2018 and the case has a pending trial date of late July 2020 [date has passed so need update]. Although not every case is expected to take in excess of two years, this signifies the need to advance the process and improve the code.

Through our collaborative efforts, CED and CAO found that the current governing ordinances had become outdated due to the changing framework of case law throughout the nation. It was determined that a resolution granting the CAO limited authority to initiate injunctive action coupled with an updated ordinance to assist in County-led demolitions was needed in order to reduce undue delay and safeguard occupants and the public from otherwise dangerous and condemned properties.

In August 2018 CED received additional tasking from the Board emphasizing the need to actively

enforce liens and foreclose on dilapidated properties. Although variations of these initiatives had already been in motion, excessive Code Enforcement liens and foreclosures had begun receiving national attention. CED developed and piloted a lien settlement process that was fair and impartial, which focused on compliance rather than being punitive. At its inception the County had over 500 liens through unincorporated Pinellas County, with values ranging from several hundred dollars to millions of dollars per lien. Many of the liens far exceed the value of the property. In total, the County has approximately \$300M in lien value. Through the pilot program CED has been providing notification to property owners notifying them of the lien and working to arrive at a settlement. On average the liens are settled for less than ten percent of the lien value, although the specific amount is determined on a case-by-case basis with a standard methodology. Additional consideration is given to potential investors, affordable housing developers, and other government entities. During this effort the CAO worked to adjust the current code and incorporate changes that would further strengthen the County's ability to address the concerns of curtailing excessive liens, while also allowing the County to quickly demolish unsafe properties and initiate foreclosure actions within a reasonable and lawful timeframe.

In July 2019, in a response to the Board and per further direction from County Administration, CED implemented a Divisional Policy to rapidly secure, repair, and perform inconsequential demolitions of unsafe, dangerous, and otherwise abandoned properties. This process allowed CED officers to assess their surroundings and take immediate onsite action to make a property safe without lengthy delays posing prolonged danger to the public. Despite the Division's success under this directive, the updated ordinances are needed to afford greater safeguards for our Officers and contractors performing these functions.

Fiscal Impact:

There are no fiscal impacts anticipated with the approval or adoption of the ordinances or resolution in this item. Although liens are being capped, lien cap amounts remain consistent with the average fines that are paid through the lien reduction program.

Staff Member Responsible:

Blake Lyon, Director, Building and Development Review Services
Jude Reazin, CED, Division Manager/Housing Official

Partners:

County Attorney's Office

Attachments:

Capping Code Liens Ordinance