

RESOLUTION NO. 2023 -90

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, REPEALING AND REPLACING RESOLUTION NO. 2012-46, THE CODE ENFORCEMENT LIEN RELIEF PROGRAM.

WHEREAS, Article VIII, Section 1, Fla. Const., provides the Board of County Commissioners (hereinafter "Board") as the governing body of Collier County, with powers of self-government as provided for by general or special law; and

WHEREAS, certain of these powers have been enumerated in Section 125.01(1), Fla. Stat., to include: (1) the power to adopt resolutions necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law, and (2) the power to perform any other acts not inconsistent with law; and

WHEREAS, Section 125.01(3), Fla. Stat., provides all implied powers necessary or incident to the carrying out of the powers in Section 125.01, and states that Section 125.01 shall be liberally construed in order to effectively carry out the purposes of this section and to secure for the counties the broad exercise of home rule powers; and

WHEREAS, the County Manager is responsible for the administration of all departments of the county government which the Board has authority to control pursuant to Chapter 125, Part III, the general laws of Florida and other applicable legislation; and

WHEREAS, pursuant to Chapter 162, Fla. Stat., the Collier County Code Enforcement Board and Special Magistrate may, upon factual findings of a violation and the violator's failure to correct or abate the violation pursuant to a previous Order by the Code Enforcement Board or Special Magistrate, impose fines, and costs to repair, by virtue of an Order Imposing Fine/Lien; and

WHEREAS, Section 162.09, Fla. Stat., provides that the Code Enforcement Board or Special Magistrate may authorize the Office of the County Attorney to foreclose the lien or to sue to recover a money judgment for the amount of the lien in the event the fine/lien remains paid three months after recording of the Order Imposing Fine/Lien; and

WHEREAS, Section 162.09, Fla. Stat., also authorizes the County to petition the court for enforcement of the order imposing fine and further provides for execution and levy to the same extent as a civil judgment; and

WHEREAS, foreclosure, execution and levy, or suits for money judgments, are often not effective methods for the recovery of code enforcement liens; and

WHEREAS, Collier County adopted Resolution No. 2012-46 to establish criteria for the Code Enforcement Director with respect to the reduction Code Enforcement liens; and

WHEREAS, Resolution No. 2012-46 was adopted in part to help deal with the foreclosure crisis

that resulted from the Great Recession, and

WHEREAS, utilizing the most cost-effective means of enforcing and collecting code enforcement fines and liens imposed by the Collier County Code Enforcement Board or Special Magistrate is in the best interest of the County; and

WHEREAS, with changing times the Board finds that updating and amending the Code Enforcement Lien Relief Program for Collier County is in the public interest and in the best interest of the health, safety and welfare of the citizens of Collier County by encouraging property owners to bring the property into compliance with County codes.

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

1. The County Manager or his/her designee (hereinafter the "County Manager") shall develop a formal, written application for use with the Lien Relief Program to be reviewed and approved by the Board. Only liens resulting from code violations are eligible.
2. In order to qualify for the Lien Relief Program the following criteria must be met by the applicant:
 - A. The formal, written application shall be completed in its entirety and submitted to the County Manager. The County Manager may request additional information in order to process the application. All code liens associated with the applicant's parcel shall be included in the application.
 - B. The non-refundable application fee for the lien reduction of \$150 shall be paid upon submittal of the application. The application fee is meant to offset the County's cost in evaluating the application, including the need to review case files and the compliance status of the property.
 - C. All administrative fees and hard costs associated with the code lien(s) must be paid at the time of the submission of the application.
 - D. The underlying violation(s) that resulted in the fine/lien must have been abated or corrected and the fine/lien amount is fixed and no longer accruing on a periodic basis.
 - E. As part of the application, the applicant shall provide a list of all properties owned by the applicant. The applicant must not have any active code violations on any other property in Collier County.
 - F. All ad valorem property taxes, special assessments, Collier County utility charges or other Collier County fees or liens against the subject real property and all other properties owned by the applicant must be current.
 - G. There are no expired permits on the subject property or any property owned by the

applicant or managing member of the applicant in the county.

H. The property is being used consistent with the permitted uses and is in compliance with the zoning laws of the County.

I. If the applicant for the Lien Relief Program is a new owner the application must include the title insurance policy and/or closing documents, if any, related to the purchase of the property. If the title policy noted the outstanding code lien, or if the applicant failed to obtain a title report prior to purchase, a lien reduction may not be granted.

3. The County Manager shall review the application to determine if the applicant is eligible for the requested relief prior to making a recommendation to the Board of County Commissioners. The recommendation may be to approve or deny the request or to approve the request with conditions. Before a lien settlement is recommended to the Board, the following conditions must be taken into consideration:

- A. Lien amount is fixed and no longer accruing on a periodic basis.
- B. Underlying violation(s) resulting in the lien has been abated.
- C. History of violations involving the applicant.
- D. Extent to which payment of the full lien would impose a severe financial hardship on the property owner and the measurable expenses incurred when bringing the property into compliance.
- E. The diligent pursuit of the applicant to bring the property into compliance.

4. If the recommendation is for approval, the lien shall be reduced to a sum not to exceed ten percent (10%) of the assessed value of the property. The "assessed value" shall be the Collier County Property Appraiser's assessed value established at the time of filing a fully completed application for a lien reduction and payment of the applicable fee. If the applicant has been found to have repeat violations as determined by the Code Enforcement Board or Special Magistrate at the subject property or any other property within the last 5 years, the reduced lien shall not exceed twenty percent (20%) of the assessed value of the property as determined by the most recent value as set forth by the Collier County Property Appraiser.

5. The Board, on good cause shown, may elect to deny any recommendation for approval, or impose conditions for approval it deems appropriate. The Board may deny any application made one year after the recording of the lien.

6. Once a code enforcement lien has been compromised by Board approval and full payment of the compromised amount has been received by the County, as verified by the County Manager, a Satisfaction and/or Release of Lien shall be prepared for the Board Chairman's signature. Within thirty (30) days of Board approval, and upon payment of the reduced lien, the County Manager shall effectuate recording of the releasing instrument. If

payment is not timely received, the application will be deemed denied ab initio and no reduction shall take place.

7. The County Manager shall report annually and upon request to the Board of County Commissioners with a report containing the code case information, amount of invoiced costs incurred by the County for abatement related services, total amount of fines accrued, whether the property is homestead property and whether the underlying violation has been abated.

8. In addition to the reduction of liens described above, the County Manager shall be authorized to execute a release of a code lien which has been deemed by the County Attorney's Office to be legally unenforceable or uncollectible in that the statute of limitations relating to the lien has expired; the lien was properly foreclosed by order of an appropriate court with jurisdiction; the lien was properly discharged in a bankruptcy proceeding by order of a bankruptcy court; the property encumbered by the lien is currently owned by the county; and for any other reason as determined by the County Attorney that establishes the legal unenforceability or uncollectibility of a lien. If issued, the county shall record the release of lien in the official records for the county.

9. Nothing contained herein is intended or shall be construed to create any rights, entitlements or remedies to the enforcement and collection of a code enforcement lien in a particular manner by any person or entity. The procedures in this Resolution are not intended to create additional substantive rights or procedural due process rights as the considerations and determinations within this Resolution are administrative actions as to whether to accept less for a debt owed to the County.

10. Resolution No. 2012-46 is hereby repealed in its entirety and superseded by this Resolution.

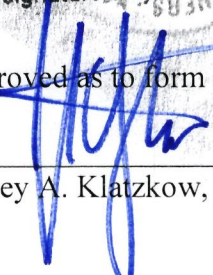
THIS RESOLUTION ADOPTED upon majority vote this 9th day of May, 2023.

ATTEST:
Crystal K. Kinzel, Clerk of Courts

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: 
Attest as to Chairman's Deputy Clerk
signature only

By: 
Rick LoCastro, Chairman

Approved as to form and legality:

Jeffrey A. Klatzkow, County Attorney