

Condensed Title:

A Resolution Approving The Settlement Of City Liens On Three Properties Owned/Controlled By Alan Lieberman, Located At The Following Locations: 1) 2315 Pinetree Drive, 2) 318 20th Street; And 3) 635 Collins Avenue.

Key Intended Outcome Supported:

Increase resident's satisfaction with level of Code Enforcement.

Supporting Data (Surveys, Environmental Scan, etc.): 61% of residents are satisfied with fairness and consistency of enforcement of codes and ordinances.

Issue:

Shall the Mayor and City Commission approve Resolutions approving these lien settlements?

Item Summary/Recommendation:

Several liens have been negotiated while the Administration has developed solutions to the question of outstanding liens in general. Through the referral item on this agenda and planned process improvements, the overall lien process should begin to improve. It would be anticipated that consistent with the policy direction the City Commission for the resolution of outstanding liens, future groups or blocks of liens will also be brought to the Commission's attention to address.

Liens presented for City Commission action involve the following three (3) properties owned by Alan Lieberman:

1. 2315 Pinetree Drive: The twenty two (22) unit apartment building is owned by Tradewind Partners and has three (3) outstanding liens in the amount of \$229,715.16. It is recommended that a more appropriate penalty for the property is \$3,000.00. A settlement in this amount is recommended.

2. 318-20th Street: This fifty four (54) unit apartment building is owned by Alan Lieberman and has accumulated liens in the amount of \$396,767.44 dating back to 1999. The value of the lien far exceeds an appropriate penalty for the infraction which is minor. As the majority of violations on this property were incurred prior to the current owner's acquisition of the property and the violations were minor in nature, it is recommended that the lien be settled in consideration in the amount of \$1,000.00.

3. 635 Collins Avenue: This twenty four (24) unit apartment hotel is owned by Metropole Hotel Apartments LLC and has accumulated liens in the amount of \$532,779.56. In light of extenuating circumstances, it is recommended that these liens, while significant in its total, be settled in the amount of \$9,000.00, as a global settlement on the property and to recognize a minor penalty for the current owner. The owner has also agreed as part of the settlement to donate an event at one of his properties for seniors, in the approximate amount of \$10,000.

The total settlement for these three properties is \$13,000. Adopt the Resolution.

Advisory Board Recommendation:

Financial Information:

| Source of Funds: | | Amount | Account |
|------------------|-------|--------|---------|
| | 1 | | |
| OBPI | Total | | |

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Robert C. Middaugh, Assistant City Manager

Sign-Offs:

| Department Director | Assistant City Manager | City Manager |
|---------------------|------------------------|---|
| | RCM | JMG  |

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: January 28, 2009

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE SETTLEMENT OF CITY LIENS ON THREE PROPERTIES OWNED/CONTROLLED BY ALAN LIEBERMAN, LOCATED AT THE FOLLOWING LOCATIONS: 1) 2315 PINETREE DRIVE, SETTling AN OUTSTANDING LIEN IN THE AMOUNT OF \$229,715.16 IN CONSIDERATION OF \$3,000.00; 2) 318 20TH STREET, SETTling EXISTING LIENS IN THE AMOUNT OF \$396,767.44 IN CONSIDERATION OF \$1,000.00; AND 3) 635 COLLINS AVENUE, SETTling EXISTING LIENS IN THE AMOUNT \$532,779.56 IN CONSIDERATION OF \$9,000.00; AND FURTHER AUTHORIZING THE CITY MANAGER TO TAKE SUCH ACTION(S) AND EXECUTE ANY AND ALL NECESSARY DOCUMENTS TO COMPLETE SUCH LIEN RELEASES AND SETTLEMENTS.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

The City Administration has been attempting over the years to find a simple and effective method with which to deal both with the lien process and the lien process outcomes. The lien process involves the enforcement departments including the Fire Department, the Building Department, the Code Compliance Division, as well as the Licensing and Tax Collection Section of the Finance Department, who handles Utility Billing. The process also involves the Office of the Special Master, as well as the City Attorney and at times the City Administration in general. While a large number of cases in each of the enforcement departments are successfully resolved each year and compliance is achieved timely, there are a number that enter into the Special Master process and ultimately result in a lien. As a result of the number of entities involved, noticing issues and follow-up issues, the process improvement has not yet been achieved.

In a separate referral item on the January 28, 2009 agenda, a brief outline for administrative steps to address liens is included, together with a request for City Commission policy direction to help improve the lien process.

While this administrative and policy consideration has taken shape, presenting liens for City Commission action was temporarily suspended. The Administration felt that it was important to be able to inform the City Commission how a larger process problem could be resolved before asking for specific approvals from the City Commission. While not fully developed, the referral item outlines several improvements and a direction established to address liens.

It would be anticipated that consistent with whatever the policy direction the City Commission gives for the resolution of outstanding liens, future groups or blocks of liens will also be brought to the Commission's attention to address as expeditiously as can be done.

Liens presented for City Commission action involve the following three (3) properties owned by Alan Lieberman:

1. 2315 Pinetree Drive

The twenty two (22) unit apartment building is owned by Tradewind Partners and has three (3) outstanding liens in the amount of \$229,715.16. There are two (2) Building liens – one (1) lien for failure to timely complete a forty (40) year Building Recertification in the amount of approximately \$8,500 and one (1) lien for \$130,600 for failing to obtain a Building Permit before completing work on an exterior planter. The remaining lien is a Code Compliance violation for several property maintenance items in the amount of approximately \$90,400. In the detailed review of this property and its records, it is apparent that the violations in total are minor in nature and the amount of liens accumulated clearly exceeds the appropriate penalty to be paid by the property owner. The Building violation for the forty (40) year Building Recertification was for a sixteen (16) day period of non-compliance and the planter violation was for not obtaining a building permit before an exterior planter was demolished. There was an eleven (11) month period of non-compliance for the property maintenance issues associated with the Code lien associated with items such as painting the building, window repair and landscape maintenance. It is recommended that a more appropriate penalty for the property is \$3,000. A settlement in this amount is recommended.

2. 318 20th Street

This fifty four (54) unit apartment building is owned by Alan Lieberman and has accumulated liens in the amount of \$396,767.44 dating back to 1999. There is one (1) Fire lien, one (1) Building lien and six (6) Code Compliance liens on the property. The Fire lien and four (4) of the Code Compliance liens in the approximate amount of \$236,000 were incurred by the previous owner who subsequently lost the property. The liens were assigned to the current owner, who had the role of lender initially and then was the designated receiver for the property in 1999 and then subsequently took title to the property. The violations were not created by the current owner and became irrelevant when the current owner under took the substantial renovation of the property. The largest Code violation is in the approximate value of \$160,000 and was issued for failure to secure a fence permit prior to construction of fencing around the exterior of the property. The fence was placed on the property prior to the renovation as a required measure to secure the property during the renovation process. Records indicate that the fence was only out of non-compliance for approximately a two (2) month period. As such the value of the lien far exceeds an appropriate penalty for the infraction which is minor. As the majority of violations on this property occurred prior to the current owner's acquisition of the property and the owner subsequently cured through renovation of the property and the violations were minor in nature, it is recommended that the lien be settled in consideration in the amount of \$1,000.

3. 635 Collins Avenue

This twenty four (24) unit apartment hotel is owned by Metropole Hotel Apartments LLC and has accumulated liens in the amount of \$532,779.56. The liens date back to 2001 and include three (3) Building violations and two (2) Code Compliance liens. A Code Compliance lien in the amount of approximately \$129,000 for operating an ATM without an Occupational License was timely complied and as such no fine should be recorded. A violation was found but the license secured before the date of compliance ordered by the Special Master. A Building lien in the approximate amount of \$30,200 for failure to obtain a Building permit before commencing work had timely compliance; however, the violation would not be removed or could not be cured until such time as the renovation work on the property was completed. The violation was cured when a building permit was obtained in a timely fashion; however, fines ran until a CO was issued. As such no fine should accrue to the property on this lien. A Building violation in the amount of approximately \$102,000 was issued for a variety of elevator violations to the previous owner. The fine was imposed and running before the current owner acquired the property and subsequent to the acquisition, the current property owner replaced the elevator in question as part of the property renovation. The elevator violations, in spite of the elevator being replaced, could not be closed until the Certificate of Occupancy was received on the property in August 2007. As such it is inappropriate to have fines recorded against this property owner for this violation. The remaining significant lien on this property is a 2004 lien in the amount of approximately \$266,000 written for failure to obtain the required forty (40) year Building Recertification. The violation was issued to the previous owner and as soon as the current owner acquired the property in 2006, work was undertaken to begin renovation of the property. The Building Recertification violation could not be closed until such time as the property received the Certificate of Occupancy which as indicated was in August 2007. The remaining lien on the property is a Code lien in the amount of \$4,900 that was written for failure to permit signs. The signs were erected by a previous tenant and under the previous owner.

In light of extenuating circumstances, it is recommended that these liens, while significant in total, be settled in the amount of \$9,000, as a global settlement on the property and to recognize a minor penalty for the current owner. Most of the lien and fine amounts were accumulated while work was being undertaken on the building that cured the original violations but could not be closed until a CO was issued. This is a flaw in our violation system that will be addressed in subsequent lien process improvements. The owner has also agreed as part of the settlement to donate an event at one of his properties for seniors, in the approximate amount of \$10,000.

JMG\RCM\sam

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RESOLUTION TO BE SUBMITTED