

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Release of Code Enforcement Lien – Case No. 07109-CEB – Anthony Tabor (previous owners) and National City Mortgage (current owner), 1754 Cedar Stone Court, Lake Mary

DEPARTMENT: Planning and Development **DIVISION:** Planning

AUTHORIZED BY: Dori DeBord **CONTACT:** Carolyn Jane Spencer **EXT:** 7403

MOTION/RECOMMENDATION:

Approve the Release of Lien in the amount of \$42,750.00, Case No. 09-109-CEB, on 1754 Cedar Stone Court, Lake Mary, Tax Parcel # 35-19-29-503-0000-0030, Anthony Tabor (previous owner) and National City Mortgage (current owner), and authorize the Chairman to execute a Release of Lien.

District 5 Brenda Carey

Tina Williamson

BACKGROUND:

In response to a complaint, on July 16, 2007, a Code Enforcement Officer observed the following violation located at 1754 Cedar Stone Court, Lake Mary: Uncultivated vegetation in excess of 24” in height and located within 75’ from any structure in violation of Seminole County Code Section 95.4, as defined in Section 95.3 (h).

While posting the property on October 12, 2007, the Code Enforcement Officer observed the following violations: Stagnant or foul water in a swimming or wading pool and swimming pool not secured according to code in violation of Seminole County Code Section 95.4, as defined in Section 95.3 (n) and (o).

The timeline on these violations is below:

DATE	ACTION	RESULT
October 25, 2007	Code Board Hearing – Findings of Fact, Conclusions of Law and Order	Order entered by Code Enforcement Board giving a compliance date of November 2, 2007 with a fine of \$250.00 per day if violations are not corrected by compliance date.
November 5, 2007	Affidavit of Non-Compliance filed by the Code Enforcement Officer after reinspection	Violations remain.
January 24, 2008	Code Board Hearing – Order Finding Non-Compliance and Imposing Fine/Lien	Order entered by the Code Enforcement Board imposing a lien of \$20,750.00 with fine continuing to accrue at \$250.00 per day until compliance is obtained.
December 1, 2008	Final Summary Judgment of Mortgage Foreclosure recorded	Final Judgment of Foreclosure has been recorded but no Certificate of Title has been issued, thus no change in ownership.

January 13, 2009	Certificate of Title recorded	Judgment of Foreclosure extinguished the accrued lien from inception of lien to Certificate of Title. The Certificate of Title transferred ownership to National City Mortgage Company. Due to non-compliance, lien will begin to accrue at \$250.00 per day against new owner as of this date until compliance is obtained.
July 7, 2009	Affidavit of Compliance filed by Code Enforcement Officer after reinspection.	Violations corrected Lien totals \$42,750.00 for 171 days of non-compliance, from date of Certificate of Title until compliance on July 3, 2009.
July 28, 2009	Release of Lien	County Attorney's Office rendered an opinion stating that sufficient notice was not given to the Respondent and the lien should be released.

STAFF RECOMMENDATION:

Staff recommends that the Board approve the Release of Lien in the amount of \$42,750.00, Case No. 09-109-CEB, on 1754 Cedar Stone Court, Lake Mary, Tax Parcel # 35-19-29-503-0000-0030, Anthony Tabor (previous owners) and National City Mortgage (current owner), and authorize the Chairman to execute a Release of Lien.

ATTACHMENTS:

1. Findings of Fact
2. Affidavit Of Non Compliance
3. Order imposing Lien
4. Property Appraiser Data
5. Affidavit Of Compliance
6. County Attorney opinion
7. Release of Lien

Additionally Reviewed By:

County Attorney Review (Melissa Clarke)

JOHANNE MORSE, CLERK OF CIRCUIT COURT
SEMINOLE COUNTY
BK 06859 Pgs 1639 - 1640; (2pgs)
CLERK'S # 2007156246
RECORDED 11/05/2007 02:35:05 PM
RECORDING FEES 18.50
RECORDED BY G Harford

**CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA**

SEMINOLE COUNTY, a political
subdivision of the State of Florida,

CASE NO. 07-109-CEB

Petitioner,
vs.

CERTIFIED COPY

ANTHONY TABOR
PARCEL I.D. NO - 35-19-29-503-0000-0030

**CLERK OF THE
CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FL**

Respondent.

BY: *Jean Spence*
DATE: 11/02/07

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Based on the testimony and evidence presented in case number 07-109-CEB, it is determined that the Respondent is

- (a) the owner of record of the property (Tax Parcel ID # 35-19-29-503-0000-0030) located at 1754 Cedar Stone Court, Lake Mary, located in Seminole County and legally described as follows:

LOT 3 MARKHAM OAKS WEST PB 58 PGS 9-11

- (b) in possession or control of the property, and
(c) in violation of Seminole County Code, Chapter 95, Section 95.4, as defined in Section 95.3 (h), (n) and (o).

It is hereby ordered that Violation (o), Number 3, presents a serious threat to the public health, safety, and welfare of the citizens of Seminole County.

It is hereby ordered that the Respondent shall correct the violations on or before November 2, 2007. In order to correct the violations, the Respondent shall take the following remedial action:

- 1) REMOVE THE UNCULTIVATED VEGETATION IN EXCESS OF 24" IN HEIGHT AND LOCATED WITHIN 75' FROM ANY STRUCTURE**
- 2) REMOVE OR TREAT STAGNANT OR FOUL WATER IN A SWIMMING OR WADING POOL**
- 3) SECURE POOL WITH BARRIER ACCORDING TO CODE**

If the Respondent does not comply with the Order, a fine of \$250.00 per day will be imposed for each day the violations continue or are repeated after compliance past November 2, 2007.

The Respondent is further ordered to contact the Seminole County Code Officer to arrange for an inspection of the property to verify compliance. Any fine imposed shall continue to accrue until the Code Officer inspects the property and verifies compliance with this Order.

This Order shall be recorded in the official land records of Seminole County.

DONE AND ORDERED this 25th day of October 2007, in Seminole County, Florida.

CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA



TOM HAGOOD, CHAIR

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

The foregoing instrument was acknowledged before me this 25th day of October 2007, by Tom Hagood, who is personally known to me.



Jane Spencer
Notary Public to and for the
County and State aforementioned.
My Commission Expires



Jane Spencer
Commission #DD299304
Expires: March 19, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

**CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE, CLERK OF CIRCUIT COURT
SEMINOLE COUNTY
BK 06921 Pgs 0054 - 55; (2pgs)
CLERK'S # 2008012409
RECORDED 02/01/2008 04:27:11 PM
RECORDING FEES 18.50
RECORDED BY G.H.
CASE NO. 07-109-CEB

**SEMINOLE COUNTY, a political
subdivision of the State of Florida,**

Petitioner,

vs.

**ANTHONY TABOR
PARCEL I.D. NO - 35-19-29-503-0000-0030**

Respondent

**CERTIFIED COPY
CLERK OF THE
CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FL**

BY: *[Signature]*
DATE: 2-9-08

ORDER FINDING NON-COMPLIANCE AND IMPOSING FINE/LIEN

The Respondent is the owner of record of the property (Tax Parcel ID # 35-19-29-503-0000-0030) located at 1754 Cedar Stone Court, Lake Mary, located in Seminole County and legally described as follows:

LOT 3 MARKHAM OAKS WEST PB 58 PGS 9-11

This case came on for public hearing before the Code Enforcement Board of Seminole County on October 25, 2007, after due notice to the Respondent. The Board, having heard testimony under oath and having received evidence, issued its Findings of Fact, Conclusions of Law and Order.

Said Order found Respondent in violation of Seminole County Code, Chapter 95, Section 95.4, as defined in Section 95.3 (h), (n) and (o). **The Board further ordered that Violation (o) presents a serious threat to the public health, safety, and welfare of the citizens of Seminole County.**

Said Order stated that a fine in the amount of \$250.00 per day would be imposed if the Respondent did not take certain corrective action by November 2, 2007.

An Affidavit of Non-Compliance had been filed by the Code Enforcement Officer, which Affidavit certified under oath that the required action had not been obtained after reinspection on November 5, 2007.

Accordingly, it having been brought to the Board's attention that Respondent has not complied with the Order dated October 25, 2007, the Board orders that a lien in the amount of **\$20,750.00**, for 83 days of non-compliance at \$250.00 per day, from November 3, 2007, through and including January 24, 2008, be imposed; and the fine shall continue to accrue at **\$250.00 per day** for each day the violations continue or are repeated past January 24, 2008.

RETURN TO SANDY MCCANN

This Order shall be recorded in the official land records of Seminole County and shall constitute a lien against the land on which the violations exist and upon any other real or personal property owned by the Respondent.

DONE AND ORDERED this 24th day of January 2008, in Seminole County, Florida.

CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA



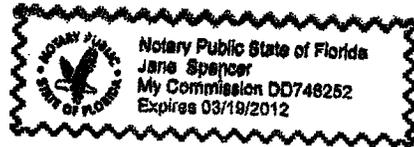
TOM HAGOOD, CHAIR

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

The foregoing instrument was acknowledged before me this 24th day of January 2008, by Tom Hagood, who is personally known to me.



Jane Spencer
Notary Public to and for the
County and State aforementioned.
My Commission Expires



<p>PARCEL DETAIL</p> <p>DAVID JOHNSON, CFA, ASA</p> <p>PROPERTY APPRAISER</p> <p>SEMINOLE COUNTY, FL</p> <p>1101 E. FIRST ST SANFORD, FL 32771-1468 407-565-7508</p>																																																														
<p align="center">GENERAL</p> <p>Parcel Id: 35-19-29-503-0000-0030</p> <p>Owner: TABOR ANTHONY</p> <p>Mailing Address: 3100 SW 192ND AVE</p> <p>City, State, Zip Code: MIRAMAR FL 33029</p> <p>Property Address: 1754 CEDAR STONE CT LAKE MARY 32746</p> <p>Subdivision Name: MARKHAM OAKS WEST</p> <p>Tax District: 01-COUNTY-TX DIST 1</p> <p>Exemptions:</p> <p>Dor: 01-SINGLE FAMILY</p>		<p>2007 WORKING VALUE SUMMARY</p> <p>Value Method: Market</p> <p>Number of Buildings: 1</p> <p>Depreciated Bldg Value: \$552,198</p> <p>Depreciated EXFT Value: \$13,158</p> <p>Land Value (Market): \$125,000</p> <p>Land Value Ag: \$0</p> <p><u>Just/Market Value:</u> \$690,356</p> <p>Assessed Value (SOH): \$690,356</p> <p>Exempt Value: \$0</p> <p>Taxable Value: \$690,356</p> <p>Tax Estimator</p> <p>Tax Reform Analysis</p> <p>2007 Notice of Proposed Property Tax</p>																																																												
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<p>PARCEL DETAIL</p> <p>DAVID JOHNSON, CFA, ASA</p> <p>PROPERTY APPRAISER</p> <p>SEMINOLE COUNTY FL.</p> <p>1101 E. FIRST ST SANFORD, FL 32771-1468 407-665-7508</p>		
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GENERAL

Parcel Id: 35-19-29-503-0000-0030
 Owner: NATIONAL CITY MTG CO
 Mailing Address: 3232 NEWMARK DR
 City, State, Zip Code: MIAMISBURG OH 45342
 Property Address: 1754 CEDAR STONE CT LAKE MARY 32746
 Subdivision Name: MARKHAM OAKS WEST
 Tax District: 01-COUNTY-TX DIST 1
 Exemptions:
 Dor: 01-SINGLE FAMILY

VALUE SUMMARY		
VALUES	2009 Working	2008 Certified
Value Method	Cost/Market	Cost/Market
Number of Buildings	1	1
Depreciated Bldg Value	\$283,675	\$449,444
Depreciated EXFT Value	\$12,324	\$12,741
Land Value (Market)	\$100,000	\$125,000
Land Value Ag	\$0	\$0
Just/Market Value	\$395,999	\$587,185
Portability Adj	\$0	\$0
Save Our Homes Adj	\$0	\$0
Assessed Value (SOH)	\$395,999	\$587,185
Tax Estimator		

SALES

Deed	Date	Book Page	Amount	Vac/Imp	Qualified
CERTIFICATE OF TITLE	01/2009	07118 0546	\$100	Improved	No
WARRANTY DEED	11/2006	06511 0765	\$1,100,000	Improved	No
WARRANTY DEED	12/2005	06082 1522	\$100	Improved	No
CORRECTIVE DEED	07/2002	04477 1038	\$100	Improved	No
WARRANTY DEED	06/2002	04454 0761	\$249,600	Improved	No
WARRANTY DEED	06/2000	03882 1436	\$94,400	Vacant	Yes

Find Comparable Sales within this Subdivision

2008 VALUE SUMMARY

2008 Tax Bill Amount: \$8,843

2008 Certified Taxable Value and Taxes

DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS

LAND

Land Assess Method	Frontage	Depth	Land Units	Unit Price	Land Value
LOT	0	0	1.000	80,000.00	\$100,000

LEGAL DESCRIPTION

PLATS: Pick

LOT 3 MARKHAM OAKS WEST PB 58 PGS 9-11

BUILDING INFORMATION

Bld Num	Bld Type	Year Blt	Fixtures	Base SF	Gross SF	Living SF	Ext Wall	Bld Value	Est. Cost New
1	SINGLE FAMILY	2001	14	3,469	5,729	4,589	WD/STUCCO FINISH	\$283,675	\$293,964
		Appendage / Sqft		OPEN PORCH FINISHED / 240					
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		Appendage / Sqft		UPPER STORY FINISHED / 1120					

NOTE: Appendage Codes included in Living Area: Base, Upper Story Base, Upper Story Finished, Apartment, Enclosed Porch Finished, Base Semi Finished

Permits

EXTRA FEATURE

Description	Year Blt	Units	EXFT Value	Est. Cost New
POOL GUNITE	2002	450	\$7,425	\$9,000
SCREEN ENCLOSURE	2002	2,144	\$3,288	\$4,288
COOL DECK PATIO	2002	558	\$1,611	\$1,953

NOTE: Assessed values shown are NOT certified values and therefore are subject to change before being finalized for ad valorem tax purposes.
 *** If you recently purchased a homesteaded property your next year's property tax will be based on Just/Market value.

CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA

SEMINOLE COUNTY, a political
subdivision of the State of Florida

Case No. 07-109-CEB

Petitioner,
vs.

ANTHONY TABOR, Previous Owner
NATIONAL CITY MTG CO, Current Owner
Parcel ID #: 35-19-29-503-0000-0030

Respondent.
_____ /

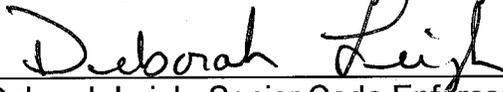
AFFIDAVIT OF COMPLIANCE

BEFORE ME, the undersigned authority, personally appeared **Deborah Leigh**, Senior Code Enforcement Officer, Seminole County Sheriff's Office, who, after being duly sworn, deposes and says:

1. That on **October 25, 2007**, the Board held a public hearing and issued its Order in the above-styled matter.
2. That, pursuant to said Order, Respondent was to have taken certain corrective action by or before **November 2, 2007**.
3. That a re-inspection was performed and the Respondent was in compliance on **July 7, 2009**.
4. That the re-inspection revealed that the corrective action ordered by the Board has been taken in that the **property was in compliance with the Boards Order**.

FURTHER AFFIANT SAYETH NOT.

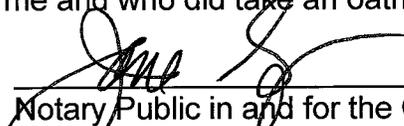
DATED this 7th day of July 2009



Deborah Leigh, Senior Code Enforcement Officer

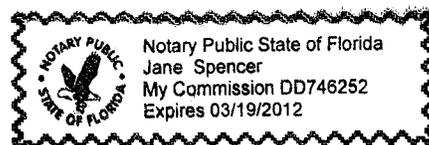
STATE OF FLORIDA)
COUNTY OF SEMINOLE)

The foregoing instrument was acknowledged before me this 7th day of July 2009, by **Deborah Leigh**, who is personally known to me and who did take an oath.



Notary Public in and for the County
and State Aforementioned
My commission expires:

2007CE003763
CMPLAFF.CEB





**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Alison Stettner, Planning Manager

Cc: ✓ Dori L. DeBord, Department Director

FROM: Melissa Clarke, Assistant County Attorney *gll*
Ext. 7254

DATE: July 9, 2009

SUBJECT: Anthony Tabor (Previous Owner);
National City Mortgage Company (Current Owner)
Case # 07-109-CEB

Question Presented

Was sufficient notice provided to the property owner for the initial Code Enforcement Board hearing on October 25, 2007?

Short Answer

No, there were several issues with the way notice was provided in this case.

Background Facts

When the case was opened for uncultivated vegetation, the "Location/Address Where Violation Exists" section of the Statement of Violation (SOV) and Request for Hearing from the Sheriff's Office had the incorrect address. The SOV and Notice of Hearing were mailed certified mail, but were returned unclaimed. The Code Officer posted a Notice of Hearing on the property, but the location of the violation on the Notice was not the address with the violation. The agenda for the hearing, and the Code Officer's presentation at the meeting contained the correct parcel identification number but the incorrect address.

Discussion

If a violation of the County's code is found, Florida Statutes, Chapter 162 provides for the fundamental due process requirements of notice to the violator and an opportunity to be heard. See, Michael D. Jones, P.A. v. Seminole County, 670 So.2d 95 (Fla. 5th DCA 1996). If a Notice of Hearing is sent via certified mail, and such Notice is returned as unclaimed or refused then notice may be provided by posting and by first class mail. Since the certified mail in this case was returned unclaimed, the Code Officer posted the property. The Notice of Hearing that was posted stated that the

violation was at 1743 Cedar Stone Court instead of 1754 Cedar Stone Court. In addition to the error on the Notice of Hearing, the Statement of Violation also stated that the violation was at 1743 Cedar Stone Court instead of 1754 Cedar Stone Court. Compounding the inadequacy of notice is the fact that the agenda for the Hearing, and the Code Officer's presentation at the meeting also contained the incorrect address. In Florida, "only immaterial errors and omissions in the form of notice have been excused by the courts." See, Mirror and Shower Door Products, Inc. v. Seabridge, Inc., 621 So.2d 486, 487 (Fla. 4th DCA 1993). Property owners have a compelling interest in avoiding improper clouds of title on their property and as such must be accorded procedural due process including fair notice and an opportunity to be heard. See, Massey v. Charlotte County, 842 So.2d 142, 146 (Fla. 2nd DCA 2003). For a code enforcement violation, fair notice requires that material information such as the location/address where the violation exists is accurate in the notices provided to the owner.

Conclusion

The owners in this case were not provided fair notice prior to the Code Board entering orders against the property and were not present at the Code Board hearing. It is therefore questionable whether the lien imposed by the Board is valid and the lien should therefore be released. Please let me know if I can be of further assistance.

MC/mc

**RELEASE OF LIEN
AS TO PARTICULAR PARCEL**

THIS instrument disclaims and releases the lien imposed by the Order Finding Compliance and Imposing Fine/Lien, issued by the Seminole County Code Enforcement Board in Case No. 07-109-CEB, filed against ANTHONY TABOR and filed by and on behalf of Seminole County, on January 24, 2008, and recorded in Official Records Book 06921, Pages 0054 - 55, of the Public Records of Seminole County, Florida, against the following described real property:

LOT 3 MARKHAM OAKS WEST PB 58 PGS 9-11

The undersigned is authorized to and does hereby disclaim and release the lien as to the whole of the above-described real property, and consents that the same be discharged of record.

DATED this _____ day of _____, 2009.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida

By: _____
BOB DALLARI, Chairman

Date: _____

For the use and reliance
of Seminole County only.
Approved as to form and
legal sufficiency.

As authorized for execution by the
Board of County Commissioners at their
July 28, 2009 regular meeting.

County Attorney