

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

36-2

AGENDA ITEM SUMMARY

Meeting Date: January 12, 2010

☒ Consent
☐ Workshop

☐ Regular
☐ Public Hearing

Department: Office of Financial Management and Budget

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve a negotiated settlement offer in the amount of \$6,500 for the full satisfaction of a Code Enforcement Lien that was entered against Mike & Kim Pinto on March 5, 2008.

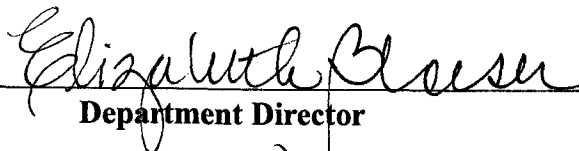
Summary: The Code Enforcement Special Master (CESM) entered an Order on September 5, 2007 giving the Pintos until November 4, 2007 to obtain the required building permit for their swimming pool barrier. Compliance with the CESM's Order was not achieved by the ordered compliance date and a fine in the amount of \$50.00 per day was imposed. The CESM then entered a claim of lien against the Pintos on March 5, 2008. The cited code violations were fully corrected as of July 29, 2009. The total accumulated lien amount through October 15, 2009, the date settlement discussions began, totaled \$41,857.02, of which the Pintos have agreed to pay the County \$6,500 (15%) for full settlement of their outstanding Code Enforcement Lien. (District 5) (PGE)

Background and Policy Issues: The initial violation that gave rise to this code enforcement case was for a swimming pool barrier that was erected without the required building permit. The Special Master gave the Pintos until November 4, 2007 to obtain compliance or a fine of \$50.00 per day would begin to accrue. A follow-up inspection by Code Enforcement of the Building Department's permits database on November 6, 2007 confirmed that the property was still not in full compliance. A code lien was then entered against the Pintos on March 5, 2008. The Collections Section of OFMB was recently contacted by the Pintos' attorney to discuss a settlement of the outstanding code lien. The Collections Section of OFMB, after careful review, evaluation, and discussions, agreed to present the proposed settlement offer in the amount of \$6,500 to the Board for approval.

(continued on Page 3)

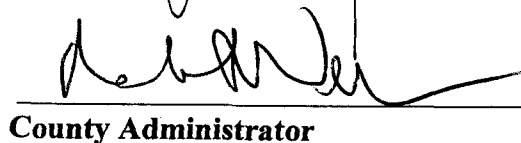
Attachments: N/A

Recommended by:


Department Director

12/17/09
Date

Approved by:


County Administrator

12/24/09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$6,500)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$6,500)</u>	_____	_____	_____	_____

ADDITIONAL FTE
POSITIONS (Cumulative)

Is Item Included In Current Budget? Yes _____ No X
Budget Account No.: Fund 0001 Department 600 Unit 6241 Object 5900

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

12/15/09 OFMB 12/16/09 mm 12-16-09 N/A
Contract Dev. and Control

B. Legal Sufficiency:

Lawrence E. Eide
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

The mitigating factors, considered during our review and evaluation, are as follows:

1. The Pintos contracted to have a pool installed on their property on October 19, 2005. The pool permits were applied for on December 15, 2005 and issued on January 30, 2006 with the pool passing its final inspection on August 2, 2006. However, the required fence sub permit was never applied for and obtained. After no response to the Building Department's notices to the owner that their pool permit could not be finalized until such time that the fence permit was obtained, the Building Department notified Code Enforcement which then cited the Pintos. Mr. Pinto alleged that when he got the notices he immediately called the pool and fence contractors and was assured that they would take care of it, which never happened. Mr. Pinto has acknowledged getting the Code Enforcement notices and orders and alleges that he contacted the fence contractor several times who assured him that they would take care of getting the permit and he never followed up. It was only when they were trying to sell their home this past summer (as they were falling behind on their mortgage due to financial hardship) that Mr. Pinto went to the Building Department and obtained the required fence permit on July 29, 2009. An inspection on July 30, 2009 by the Building Department confirmed that the fence, which was erected, was in full compliance with the applicable building codes and the Certificate of Completion for the pool permit was issued.
2. The contract that was entered into with the fence company does indicate that they would pull the applicable building permit, but for reasons unknown, they did not. Although they did not obtain the required permit, the fence that was erected did meet all building code requirements for a pool barrier.
3. The subject property was the Pintos' homesteaded property, and the only property that they own. The Pintos were forced to sell their home due to financial hardship. Their mortgage lender initiated foreclosure proceedings on August 7, 2008.
4. The proposed code lien settlement amount will be paid from the sales proceeds which are currently being held in escrow by the closing agent pending resolution and approval of the code lien settlement.
5. The gravity of the violations, together with the fact that there were no life/safety issues involved, warrants consideration of a reduction of their substantial lien amount.

An Affidavit of Compliance has been issued by Code Enforcement and states that the cited violation was corrected as of July 29, 2009 and that the property is in full compliance with the CESM's Order. Further, the cited violations did not involve any health/safety issues.

Settlement offers that reduce any debt amount due to Palm Beach County by more than \$2,500 require the approval of the Board of County Commissioners, per Countywide PPM# CW-F-048. This settlement offer exceeds the \$2,500 limit and requires Board approval.

In light of the above stated circumstances, Staff believes that the proposed settlement is fair and in the best interest of Palm Beach County.