

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

3G-6

AGENDA ITEM SUMMARY

Meeting Date: August 25, 2020

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 \$30,000 for the full satisfaction of a code enforcement lien that was entered against David R. Hershberger on May 4, 2016.

**Summary:** The Code Enforcement Special Magistrate (CESM) entered an Order on March 2, 2016 for the property owned by David R. Hershberger giving him until April 1, 2016 to bring the property located at 5232 Woodstone Cir S., Lake Worth, Florida into full code compliance. The property had been cited for outdoor storage of unlicensed/unregistered and/or inoperable vehicle(s) and grass/weeds greater than seven (7) inches in height. Compliance with the CESM's Order was not achieved by the ordered compliance date and a fine in the amount of \$50 per day was imposed. The CESM then entered a claim of lien against David R. Hershberger on May 4, 2016. The Code Enforcement Division issued an affidavit of compliance for the property on December 30, 2019, stating that the cited code violations had been fully corrected. The total accrued lien amount through June 19, 2020, the date on which settlement discussions began, totaled \$82,527.19. Mr. Hershberger's Estate has agreed to pay Palm Beach County \$30,000, (36%) for full settlement of the outstanding code enforcement lien. District 2 (SF).

**Background and Justification:** The violations that gave rise to this code enforcement lien were for outdoor storage of unlicensed/unregistered and/or inoperable vehicle(s) and grass/weeds greater than seven (7) inches in height. The Special Magistrate gave David R. Hershberger until April 1, 2016 to bring his property into full code compliance or a fine of \$50 per day would begin to accrue. A follow-up inspection by the Code Enforcement Division on April 4, 2016 confirmed that the property was still not in full compliance. A code lien was then entered against David R. Hershberger on May 4, 2016. The Code Enforcement Division issued an affidavit of compliance for the property on December 30, 2019 stating that the cited code violations had been corrected. The Collections Section of OFMB was originally contacted by the representative of David R. Hershberger's Estate on June 30, 2020 to discuss a settlement. Collections, after extensive review, evaluation, and discussions with the Code Enforcement Division and the County Attorney's Office, has agreed to present the proposed settlement offer in the amount of \$30,000 to the Board for approval.

(Continued on page 3)

Attachments: none

Recommended by:

Spencer Brown  
Department Director

8/11/2020  
Date

Approved by:

Verdenia C. Baker  
County Administrator

8/14/2020  
Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures					
Operating Costs					
External Revenues	(\$30,000)				
Program Income(County)					
In-Kind Match(County)					
NET FISCAL IMPACT	(\$30,000)				
#ADDITIONAL FTE					
POSITIONS (CUMULATIVE)					

Is Item Included In Current Budget? Yes      No X  
 Does this item include the use of federal funds? 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:**

Palenka 8/11/20  
 OFMB  
 SC 8/11 NYJ 8/11/20 RAJ  
 AP 8/11/20 8/11/20  
 \_\_\_\_\_ N/A  
 Contract Dev. and Control

**B. Legal Sufficiency:**

[Signature]  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_ N/A  
 Department Director

## **Background and Justification Continued (David R. Hershberger) Page 3**

The factors considered during staff's review and evaluation of this settlement are as follows:

1. The cited violations were for outdoor storage of unlicensed/unregistered and/or inoperable vehicles and grass/weeds greater than seven (7) inches in height. He was given until April 1, 2016 to comply or a daily fine in the amount of \$50 per day would begin to accrue. During the open violation period, Mr. Hershberger was dealing with some serious health issues. According to his family, David became ill around 2014, and, because of the illness he became depressed and started drinking heavily. He started losing his ability to function in society. By the end of 2016 he became psychologically paralyzed which prevented him from taking care of his responsibilities.
2. Mr. Hershberger's condition became worse and he did not accept any correspondence. As a result, he lost his two (2) investment properties to foreclosure. His condition continued to decline and he was unable to maintain his primary residence. His driver's license was suspended because of a DUI; therefore, he could not renew his vehicle registration (one of the cause of the violations). The delays in obtaining code compliance were the result of his health deterioration.
3. On December 30, 2019, an affidavit of compliance was issued by the Code Enforcement Division stating that the cited code violations were fully corrected and the property is in full compliance with the CESM's Order.
4. Mr. Hershberger was found deceased at home. Although the death certificate stated that the Coroner received his remains on October 1, 2019, the autopsy revealed that he had died several months prior at the age of 70.
5. The subject code violations did not present any life safety issues.

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

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.