

RESOLUTION 22-16

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AND RECORD RELEASE OF LIEN OR PARTIAL RELEASE OF CODE COMPLIANCE LIENS UPON FULL PAYMENT OF THE LIEN, FULL PAYMENT OF AMOUNT REDUCED BY THE CITY COMMISSION, OR OTHERWISE REQUIRED BY LAW; AUTHORIZING THE CITY MANAGER TO CONSIDER ANY APPLICATIONS FOR REDUCTION OF CODE COMPLIANCE LIENS AND MAKE RECOMMENDATIONS TO THE CITY COMMISSION; PROVIDING CRITERIA TO BE FOLLOWED WHEN CONSIDERING APPLICATIONS FOR REDUCTION OF LIENS; AUTHORIZING THE CITY MANAGER TO APPROVE CODE COMPLIANCE LIEN REDUCTIONS OF UP TO \$50,000; REPEALING RESOLUTION 21-09; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 162.09(3), Florida Statutes, provides that code compliance liens run in favor of the local governing body, and the local governing body may agree to satisfy or release code compliance liens; and

WHEREAS, the Attorney General of the State of Florida has concluded that code compliance boards are not authorized to reduce fines after the code compliance order has been recorded in the public records, and that the local governing body is vested with the authority to compromise, reduce, or satisfy liens after such liens have been recorded; and

WHEREAS, the Attorney General also has concluded that a local governing body, such as the City Commission, may delegate its authority to execute satisfactions or releases of code compliance liens so long as such delegation does not result in a complete divestiture of such liens by the City Commission to a private party; and

WHEREAS, pursuant to Section 166.021, Florida Statutes, the City of Dunedin through its home rule powers may exercise any power for municipal purposes except those expressly prohibited by law; and

WHEREAS, the City Commission previously adopted Resolution 21-09, establishing policies and procedures for stipulating to settlements and compromises to its code compliance liens; and

WHEREAS, the City desires to continue the procedure for stipulating to settlements and compromises to its code compliance liens as stated herein

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

SECTION 1. Legislative and Administrative Findings. The above recitals are hereby adopted as the findings of the City Commission.

SECTION 2. Release of Liens: Applications for Reduction of Code Compliance Liens.

- (a) Where a certified copy of an order imposing a penalty or fine relating to a Code Compliance Division case has been recorded in the public records and has become a lien against the land and/or property of the violator/property owner (a lien), the City Manager is authorized to execute and record a release or partial release of a lien where:
 - (1) full payment of the lien amount is made by or on behalf of the violator/property owner; or
 - (2) full payment of a reduced lien amount is made within ninety (90) days after approval of a request for a reduction of a lien submitted in accordance with this Resolution, unless an alternate time period is established at the time of approval; or
 - (3) the lien is not enforceable under Florida law.
- (b) Applications for a reduction of a lien shall be made in writing to the City Manager or his/her designee and shall include, at a minimum, the following:
 - (1) a copy of the order imposing the lien upon the property;
 - (2) the code compliance case number;
 - (3) the date upon which the violator/property owner brought the subject property into compliance with the City Code;
 - (4) the factual basis upon which the violator/property owner believes the application for reduction or forgiveness of the lien should be granted;
 - (5) the terms upon which the violator/property owner believes a reduction of the lien should be granted;
 - (6) the reasons, if any, compliance was not obtained prior to the compliance date ordered by the Code Compliance Division; and

- (7) the amount of the reduction in the lien sought by the violator/property owner.
- (c) Applications shall be executed under oath and sworn to in the presence of a notary public.
- (d) Upon receipt of any request to satisfy, release, or reduce a lien, the City Manager, or his/her designee, shall confirm that the violation which resulted in the order imposing the lien has been brought into compliance. If the violation has not been brought into compliance, a waiver or reductions of the lien shall not be granted.
- (e) The City Manager, or his/her designee, shall then review and consider the application for reduction of the lien pursuant to the following threshold criteria:
 - (1) if a property owner has purchased property on which a lien previously was recorded, a waiver or reduction of lien shall not be granted.
 - (2) if a title insurance policy is issued upon the purchase of the property and the title insurance policy failed to identify the lien, a waiver or reduction of the lien shall not be granted.
 - (3) if the request is for reduction of a previously reduced lien that was not timely paid in accordance with this Resolution or other duly approved written agreement with the City to compromise such lien, a waiver or reduction of the lien shall not be granted.
- (f) If the City Manager, or his/her designee, determines that one or more of the above established threshold criteria applies to the request, the City Manager, or his/her designee, shall issue a written denial of the application. If the applicant wishes to appeal the City Manager's threshold determination, the applicant may do so by filing a written appeal with the City Manager asserting why the City Commission should make an exception to its established guidelines within fifteen (15) calendar days of the issuance of the City Manager's written denial. Upon the receipt of a proper and timely appeal, the City Manager shall present the appeal to the Board of Adjustment and Appeals for its consideration and final determination.
- (g) If the City Manager, or his/her designee, determines that a request does not warrant immediate denial pursuant to the above threshold criteria, the City Manager, or his/her designee, shall consider the following factors to determine how much, if any, the amount of the lien should be reduced:

FACTOR	MAXIMUM LIEN REDUCTION
(1) Gravity of the Violation (impact on the public health, safety, and general welfare of the occupant(s) and surrounding properties.)	
(a) Minor	50%
(b) Severe	25%
(2) Time to Come into Compliance from the date Notice of Violation is issued.	
(a) Under 6 months	30%
(b) 6-12 months	20%
(c) 1-2 years	10%
(d) More than two years	0%
(3) Previous Code Violations	
(a) No previous violations found by Code Compliance Board and/or Magistrate	20%
(b) Repeat Violator (as defined in chapter 162, Florida Statutes), or other prior violations found by Code Compliance Board	0%
Total Possible Lien Reduction	100%

- (h) In addition to the above stated factors, the City Manager may take into consideration the property owner's financial ability to pay the lien based upon the ratio of property value to outstanding mortgage amount and any pending purchase contracts that could cover all or a portion of the lien.
- (i) The City Manager, or his/her designee, is authorized to approve requests for code compliance lien reductions submitted in accordance with this Resolution up to a total maximum of \$50,000, based on the above stated lien reduction factors. Regardless of the potential percentage reduction, the City Manager may reduce the amount of the lien by a maximum of \$50,000 less administrative expenses. Any requests for reduction in a greater amount shall require approval by the City Commission in accordance with this Resolution and the procedures below:
 - (1) The City Manager shall place the application for reduction of lien on the agenda of a City Commission meeting. The City Manager's recommendation should set forth the amount of administrative expenses related to the lien. The City Commission may take action based solely upon the sworn application; recommendation of the City Manager, and the applicant's written statements, if any, to the City Commission as to the factors warranting reduction of the lien in considering the application.

- (2) The City Commission may reduce the amount of the lien, waive the full amount of the lien less administrative expenses, or continue the lien in its full amount.
- (j) When a lien is satisfied, whether by full payment of the entire lien amount or a reduced amount approved pursuant to this Resolution, the applicant shall pay all costs of recording of the release of lien or other documentation.
- (k) The applicant shall have ninety (90) days from the date of approval to pay the reduced amount of the lien unless an alternate time period is established by the City Commission at the time of approval. If the applicant fails to pay the reduced amount of the lien and all costs of recording within the time frame set forth in this paragraph, the lien shall revert to the full amount prior to the reduction and shall continue in the full amount until paid in full by or on behalf of the violator/property owner.

SECTION 3. Conflicts. Resolution 21-09 is hereby repealed in its entirety and replaces with this Resolution.

SECTION 4. Implementing Actions. The City Manager, or his/her designee, is hereby authorized to take any actions necessary to implement the provisions of this Resolution.

SECTION 5. Severability. Each provision of this Ordinance shall be deemed separate and severable and if any section or part thereof is held to be invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

SECTION 6. Effective Date. This Resolution shall take effect immediately upon adoption by the City Commission.

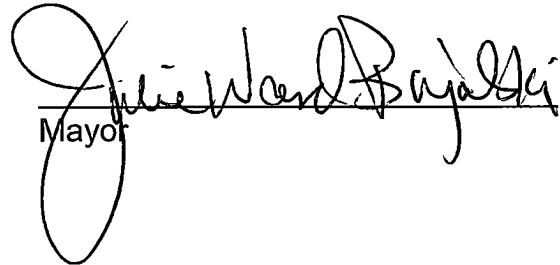
PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS June 7 2022.



ATTEST:



City Clerk


Mayor

APPROVED AS TO FORM:



City Attorney

