



CITY OF HALLANDALE BEACH ADMINISTRATIVE POLICY

Date of Issue: March 1,
2023

Effective Date: March 1,
2023

Last Revision/Review Date:
February 5, 2014

Revision/Review Date

APPROVED

Jeremy Earle (May 15, 2023 09:44 EDT)
Jeremy Earle, City Manager/CRA Executive Director

MITIGATION OF LIENS AND FINES POLICY 2023-R7

Policy Owner: Department of Sustainable Development

Responsible Department-Position/Role: Code Compliance Official

Policies Cross Referenced: N/A

Policy Title(s) and Number(s): Mitigation of Fines and Liens 2014-002/R6

POLICY PURPOSE/INTENT

The purpose of this policy is to familiarize all personnel with the mitigation of fines and liens process and its operation. It is in addition to the City Charter and Code of Ordinances in accordance with City Ordinance section 9-46. It is not intended to change, alter, or supersede Florida State Statutes, or City Charter or Code of Ordinances.

It is also recognized that no document can be created which will cover all circumstances for all times. Therefore, this document is considered a flexible guide to operational efficiency. Deviations made from the strict interpretation of this policy should be backed up by sound professional judgment and responsible integrity.

From time-to-time parts of this policy will be amended or rescinded, as dictated by the efficiency needs of the City Manager.

The following documents are incorporated within this policy:

- Ordinance No. 2014 – 23, Effective Date: September 3, 2014
- Resolution No 2014 - 11, Effective Date: February 5, 2014,
- Chapter 9, Section 9-46 Amended Date: September 3, 2014
- Chapter 2, ARTICLE VI. - CODE OF ETHICS: May 5, 2010

ROLES & RESPONSIBILITIES

BACKGROUND:

The Department of Sustainable Development is responsible for processing the mitigation of Special Magistrate and/or Code Enforcement Board fines and liens.

ACTION:

The Code Compliance Division is responsible for ensuring the City's mitigation of fines and liens process is in accordance with state statutes, City ordinances and City Code of Ethics. The underlying premise for this mitigation of fines and liens Standard Operating Procedures is to promote and foster remedies of the code violations and abatement of the slum and blighted conditions, so the public health, safety and welfare of its residents are maintained.

MISSION:

The City of Hallandale Beach is dedicated to enhancing the quality of life in our community in a fiscally responsible manner by providing superior services that meet the needs of our community as well as plan for their future needs through continued communication.

GOALS AND OBJECTIVES:

Encourage property owners to abate code violations and have the fines reduced significantly to a more reasonable amount. The procedures will also enable the sale of foreclosure properties with fines accruing, so violations can be abated and fines mitigated under certain circumstances. Finally, the amended procedures will allow the City the ability to recover costs incurred on code compliance cases through the mitigation process. The goal of these procedures is to seek remedy of the code violations and abatement of the slum and blighted conditions, so the public health, safety and welfare of its residents are maintained.

GENERAL: This section is to establish standardized, formal procedures for controlling the mitigation of fines and liens.

DESIRED OUTCOME: To allow the City the ability to recover costs incurred on City code violation cases from all Special Magistrate or Code Enforcement Board ordered fines and liens through the mitigation process and to seek remedy of the code violations and abatement of the slum and blighted conditions, so the public health, safety and welfare of its residents are maintained.

MEASUREMENT: Number and percentage of complied cases compared to all open cases and amount of mitigated fines collected.

RECORDS: Chapter 9, section 9-46, Resolution No. 2014 – 11

POSITIONS and DUTIES:

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- City Manager: Review and approval of mitigations appeals.
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- Assistant City Manager: Review and approval of mitigations appeals.
- Department of Sustainable Development (DSD) Director: Review and approval of mitigations.
- Code Compliance Official: Process of all mitigation requests and collection of all mitigated fine payments. Recommends mitigation amount to DSD Director
- Code Compliance Specialist: Ensure compliance, enforce city codes or ordinances and to present code violations to a board or special magistrate.
- Code Administrative Assistant: Process all mitigation fees and lien payments,
- Special Magistrate: Conduct Code Enforcement hearings pursuant to Chapter 162, Municipal Code Enforcement, of the Florida Statutes and Chapter 9, of the City's Code of Ordinances.

PROCEDURES

Requests for mitigation of Special Magistrate and/or Code Enforcement Board lien(s) and fines shall be processed by the Department of Sustainable Development (DSD), Code Compliance Division, and the recommendation may be approved, denied, or amended by the DSD Director in accordance with Chapter 9, Section 9-46, of the City of Hallandale Beach's Code of Ordinances.

The process is as follows:

- 1) The property owner and/or designated representative shall submit a completed Petition for Mitigation form for each property with liens, properly notarized, including any documentation to support the Mitigation Petition, to the Code Compliance Division. A previous owner may apply if the recorded lien is in the name of that previous owner.
 - a) The mitigation petition fee of \$150.00, per lien, must be paid before the application is processed. The fee applies per lien even if multiple liens are included in one application for a single property. Paying by check does take longer (approximately 2 weeks). This is a nonrefundable, administrative fee and is not applied to the amount of the lien.
 - b) Owners may designate a representative to represent them in the application process, but a designated representative must be identified on the application along with the notarized signature of the owner.
 - c) To be considered for the mitigation, the lien property and all other properties owned by the applicant in the City of Hallandale Beach are must be in compliance with City Code and have no outstanding open Code Violations.
 - d) If a property owner has more than one lien on the same property or liens on other properties in the City of Hallandale Beach, all liens must be mitigated at the same time, and each property will require its own mitigation application.
 - e) If any additional existing liens, as described in d) above, cannot be mitigated (such as f-h below), then it must be paid in full, or resolved to the point it can be mitigated before any others can be mitigated.
 - f) Any lien resulting from a fine for a violation that was determined by the Special Magistrate to be irreparable or irreversible cannot be mitigated.
 - g) Any lien on a property going through foreclosure proceedings or in process for a tax deed sale is not eligible for mitigation.

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- h) Any lien from a case that still has an active appeal or notice of appeal filed with the circuit court is not eligible for mitigation.
- i) All mitigated liens or fines revert to the full amount if not paid by the due date. If this occurs, any payments made toward the mitigated amount will be applied to the balance of the full lien amount or total fines due.

2) Upon submission of an eligible application for mitigation, the Code Compliance Division will review the file and complete a summary which will include the following, as applicable:

- a) Owner name, address, folio number and case number;
- b) List of violations;
- c) Original date cited, final order date to comply and compliance date;
- d) Fine amount that was assessed per day and amount owed;
- e) Homestead Status;
- f) Reason applicant requests Mitigation of fines;
- g) Administrative cost incurred by the City
- h) Rental Status
- i) Code Compliance Case History of owners' properties in the City of Hallandale Beach
- j) Participation in HBCRA financial assistance program
- k) Any other issues raised in the application

3) The Code Compliance Division will submit a Mitigation Memo to the DSD Director to include a recommended mitigation amount, summary of violations, reason for recommendation, a brief summary of costs incurred by the City, and any relevant background information. Liens may be recommended for reduction to amounts no lower than the amounts permitted by the following guidelines:

- a) For calculation purposes only, the maximum value of the total lien amount will not exceed the just market value listed by the Property Appraiser's office.
- b) Homestead property may be reduced to actual costs plus 5% of total fine amount.
- c) Non-Homestead or commercial property (excluding residential rental properties), such as a second home or vacant property, may be reduced to actual costs plus 15% of total fine amount.
- d) Residential rental properties may be reduced to actual costs plus 20% of total fine amount.
- e) Homesteaded properties participating in financial assistance program for property improvements from the City of Hallandale Beach Community Redevelopment Agency (HBCRA) may be reduced to the greater of: 1) costs incurred by the City, or 2) if mitigated amount or calculated costs are less than \$1000.00, amount recommended will be \$1000.00 to cover minimum costs. Applicant must provide the preapproval letter provided to them by the HBCRA.
- f) Hardship Claim: Extreme Hardship cases such as death, illness, financial, retired individuals over the age of 65 with a demonstration of insufficient assets, or catastrophe may be recommended for a 100% reduction based on severity or impact of the hardship. The determination of whether a particular set of facts rises to the level of extreme hardship for the purpose of lien mitigation is solely at the discretion of the City.
- g) A property acquired by a new owner, through an arm's length transaction, with existing accruing code enforcement fines, may be eligible for suspension of the accruing fines as of the date of permit application submission.
 - 1. If the permit meets the following criteria, the amount of accrual from the date of permit application through the date of approved final inspection will be excluded from the total amount as part of this mitigation process:
 - i. The permit is applied for within 6 months of property transfer date.
 - ii. Neither the permit application nor the permit expires prior to finalization.
 - iii. All of the violations are corrected within 90 days of the date of permit issuance.
 - 2. If the above criteria are met, the request for mitigation of lien(s) will be processed pursuant to this policy, excluding the suspended accrual amounts.
 - 3. If the applicant fails to meet any of the criteria above, the suspended accrual will be applied in full.
- h) Covid delays should be considered as an additional factor for reduction for any case in which the Special Magistrate ordered accrual began no earlier than November 10, 2019, and no later than June 26, 2021, and the fine accruing was due to a violation that required a contractor

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- and/or permits to rectify. In those cases, a reduction less than the standard amount, as outlined in a) through c) above, could be recommended on a case-by-case basis.
- i) Ownership history in Hallandale Beach will be reviewed. A lesser reduction than what is outlined above may be recommended for Owners who have demonstrated a lack of attempt to comply or cooperate with city staff, have a significant history of code violations, have previously mitigated liens, or if the violation(s) is severe in nature.
 - j) If City has previously made a mitigation settlement offer, but said offer was not timely accepted and paid, subsequent mitigation requests will be calculated at a percentage 5 points higher than the above guidelines, per mitigation attempt, unless extreme hardship preventing payment of previous mitigation is demonstrated. (For example, a homesteaded property would be mitigated at no less than costs plus 10% of total fine amount if a previous mitigation settlement offer had been extended.)
 - k) The guidelines herein reflect the maximum mitigation authority of the DSD Director.
 - l) The DSD Director may request the City Manager consider additional mitigation for an application that did not claim hardship, but which the Director believes, in the City's best interest, ought to receive mitigation that exceeds the DSD Director's mitigation authority. When such a request is made, a written recommendation from the DSD Director, also indicating the administrative costs to the city, will accompany any supporting information provided by the affected party. In cases reviewed pursuant to this paragraph, the City Manager will then make the final mitigation decision.
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- 4) Once the DSD Director determines the final mitigation amount, an Agreement Letter shall be sent via U.S. regular mail to the person who submitted the request, or via email if the applicant so requests. The letter must be signed and returned to the department within thirty (30) days of the postmark date and the mitigated amount must be paid within sixty (60) days for the agreement to be valid. If the agreement is not signed, the lien will not be released even if payment has been received. Payment can be made in cash, via credit card or by Certified Bank Check for the Release of Lien document to be prepared. If payment is received in the form of a personal check, the Release of Lien will be prepared after the check clears in approximately two (2) weeks. A Thank-you Letter is sent to the Property Owner when payment is received. Once the Release of Lien is signed by the City Clerk and the City Manager, the original Release of Lien will be recorded in Broward County and a copy of the recorded Release of Lien will be given to the person who requested mitigation of the fines.
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- 5) Appeal of the decision of the DSD Director is only available for review of the hardship factor determination or a Covid-19 delay determination as described in this policy and only if the hardship information or Covid-19 delay facts were included within the original mitigation request. Applicants may appeal the decision of the DSD Director to the City Manager to consider whether the DSD Director has properly considered the hardship clause or the Covid-19 delay clause in making a decision regarding a mitigation request as follows:
- a) Applicant must pay an administrative appeal fee of \$250.00, which is non-refundable and does not get applied to the lien. When such a request is received, the DSD Director's written decision shall be provided to the City Manager for consideration along with the information submitted with the application. The City Manager may either:
 - 1) affirm the DSD Director's decision, or
 - 2) The City Manager shall make the final determination about the hardship and overturn the DSD Director's decision if there is preponderance of evidence that supports that there is in fact a hardship that meets the guidelines as strictly laid out in the policy.
 - b) The time for acceptance of an eligible mitigation offer which is appealed to the City Manager pursuant to this paragraph will be tolled commencing on the date the appeal fee is paid. Upon the determination of the City Manager, a final agreement offer letter will be provided which shall be subject to the same terms as detailed in paragraph 4 above. There are no other methods of appeal, negotiation, or reconsideration of mitigation settlement offers.
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- 6) The City does not manage formal payment plans.

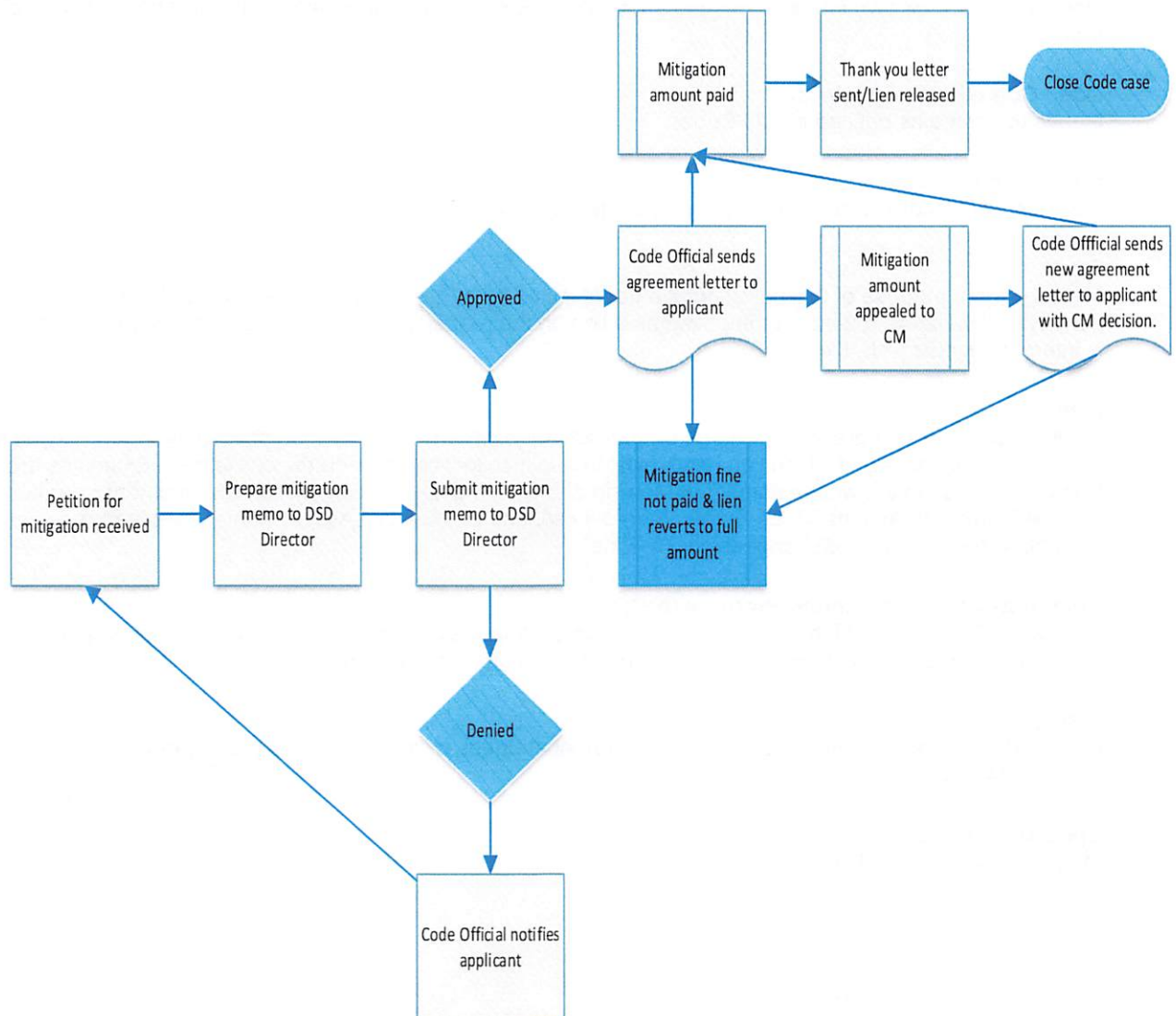
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- a) Applicants who request an extended payment arrangement after receiving the agreement letter can have the original (60) sixty day deadline extended as far as one year from the date of the agreement letter allowing the applicant to make partial payments for the duration of that time. An Applicant has fourteen (14) days from the date of the agreement letter to make the request. Late extended payment arrangement requests will not be accepted.
- b) Any applicant who is requesting an extended payment arrangement must pay 25% of the mitigated amount within 30 days of submitting the payment plan request. The due date for the balance of the mitigated amount is one year from the date of the agreement letter. The balance of the mitigated amount may be paid in any increment or frequency as long as the total mitigated amount is paid by 6:00 PM on the due date.
- c) The one-year deadline may be extended by the DSD Director for up to an additional twelve (12) months if applicant provides information regarding a new hardship that prevented payment within that one-year period.
- d) The applicant is responsible for making payments. Reminders are not sent out by City staff.
- e) Failure to pay the total mitigated settlement amount by the deadline will result in cancellation of the agreement and the total lien amounts will be due and payable minus all amounts paid towards the lien settlement, which will be applied towards the total lien amounts.

- 7) There are no other extensions for any deadline in this policy unless the City offices are closed due to any state of emergency.

It shall be the responsibility of the Department of Sustainable Development, Code Compliance Division, to update this Administrative Policy.

MITIGATION PROCESS MAP



DEFINITIONS

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Arm's Length Transaction

Means, as defined in Black's Law Dictionary, transactions in which independent unrelated parties are looking out for their own interests not one another's. There can be no involvement in interest that favors one party

Code Compliance Specialist

Means the same as defined in City Code

Administrative Cost

Means costs as calculated using attached cost itemization

Fine

Means, for the purpose of this policy, total amount levied by a Special Magistrate or Code Board as a penalty civil in nature, but not yet imposed as a lien on the property. For the purpose of this policy, the term is interchangeable with "Lien."

Lien

Means a claim, encumbrance, or charge on property for payment of some debt, obligation or duty. Accounts Receivables of the City in which lien rights exist to affect collection and/or a deposit is held. Examples are Utility Accounts in the owner's name, Lot Mowing and Clearing, Demolitions, Code Enforcement Board or Special Magistrate Actions, Code Enforcement Fines/Liens and Special Assessments. For the purpose of this policy, this term is interchangeable with "Fine"

Neighborhood Improvement Program (NIP)

Means a CRA program(s) that assists property owners to achieve parking, roof, drainage and property maintenance improvements by offering no interest loans and other incentives.

Mitigation

Means to make less severe. Alleviation, reduction, abatement, or diminution of a penalty or punishment imposed by law

Special Magistrate

Means the same as defined in City Code.

FORMS

[Petition for Mitigation of Code Enforcement Fines](#)

[Mitigated Lien Payment Plan Agreement](#)

[Petition to Appeal mitigation to the City Manager](#)

ATTACHMENTS

[Mitigation Petition Guidelines](#)

[Petition for Mitigation of Code Enforcement Fines](#)

[Mitigated Lien Payment Plan Agreement](#)

[Petition to Appeal mitigation to the City Manager](#)

[Code Compliance Lien Mitigation Cost Calculation Worksheet](#)

FREQUENTLY ASKED QUESTIONS

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There is no FAQ associated with this policy.

HISTORY

Revision 2:

Text

Revision 1:

Text

Effective:

Text

New Policy:

Text