



THE CITY OF KEY WEST  
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### **AMENDED EXECUTIVE SUMMARY**

Date: March 15, 2022

To: City Commission

CC: Patti McLauchlin, City Manager  
Shawn D. Smith, City Attorney

From: Nathalia A. Mellies, Assistant City Attorney  
Jim Young, Director of Code Compliance

Re: 1109 Fleming Street Lien Mitigation

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### **Background**

The City of Key West received a mitigation request from Robert Cintron on behalf of Michael Coppola (“Owner”), the former owner of the property, for liens recorded against 1109 Fleming Street. The total amount of the lien is Two Hundred and Thirty-One Thousand Dollars, (\$231,000.00.) Mr. Coppola is offering Thirty-Five Thousand Dollars (\$35,000.00), for the release of the lien placed by the City of Key West pursuant to City of Key West Code of Ordinances Sec 2-635 and FL Statute 162.09 (to place the lien) and Sec. 2-646 (to remove lien). The Bank which foreclosed on the property requested and previously received a partial lien release in the amount of Fifty Thousand Dollars (\$50,000.00) which was applied to the total balance.



The subject property is a single-family residential property purchased on March 24, 2000 by Michael C. Coppola, Jr. (the “Former Owner”).<sup>1</sup> Subsequently, due to a foreclosure of the property, ownership eventually transferred to the Bank.<sup>2</sup> The histories of the ownership transfers, as available by public record, are shown below in **Table 1**.

During Mr. Coppola’s ownership, Code Compliance staff processed Code Case No. 02-1032, as detailed in **Table 2**.

**Table 1: Property Ownership and Foreclosure**

<b>DATE</b>	<b>NARRATIVE</b>
03/24/2000	Michael C. Coppola purchases 1109 Fleming Street.
11/27/2012	Deutsche Bank National Trust Company (“Bank”), as assignee of the original mortgagor, filed a Real Property Mortgage Foreclosure Action against the Former Owner and the City of Key West (Case no. 2012-CA-1316-K).
11/29/2012	Notice of Lis Pendens recorded by Bank.
02/13/2014	Bank and Former Owner file a Stipulation for Consent Final Judgment against Former Owner in the amount of \$1,401,022.76.
02/19/2014	The Court grants the request from the Bank and the Former Owner for a Consent Final Judgment. The City was not named in the Consent Final Judgment.
06/26/2014 07/03/2014	Notice of Publication runs in the Key West Citizen naming “MICHAEL C. COPPOLA ET AL the Defendant(s)”.
07/28/2014	Certificate of Title issued to Bank.
12/16/2014	Bank sold the subject property to the current Owner (not the applicant) for \$1,300,600.00.

**Table 2: Case History, CC02-1032<sup>3</sup>**

<b>DATE</b>	<b>NARRATIVE</b>
08/28/2002	Code Compliance received an anonymous complaint of a new two story structure being built without permits.
09/07/2002	A stop work order is posted at the subject property for construction work being performed without the required permits.
09/12/2002	Notice of Code Violation/Notice of Administrative Hearing (“NOCV/NOAH”) was issued, via certified mail, to the property owner. The property owner was charged with violating the following Sections of the City’s Code of Ordinances: Sec. 14-37, Building Permits Required, Sec. 14-40, HARC Certificate of Appropriateness Required and Sec. 14-31/14-40 Working over a Stop Work Order. The initial hearing date was scheduled for September 25, 2002. The hearing was later continued to December 5, 2002.

<sup>1</sup> Monroe County Property Appraiser’s Office

<sup>2</sup> Monroe County Clerk of the Courts

<sup>3</sup> All facts are taken from available public records. However, due to the passage of time, some information may not be available.

09/26/2002	Code Compliance officers heard the sounds of electric saws and hammering emanating from the rear of the subject property. The code officers observed several subjects performing construction work over the stop work order.						
12/05/2002	The Special Magistrate found the subject property owner in violation of Sec. 102-158(a) and Sec. 102-158(b), working over two stop work orders. The Special Magistrate assessed an Administrative Cost of One Hundred Dollars, (\$100.00), and a Fine of Two Hundred and Fifty Dollars, (\$250.00), per day, per count if compliance was not achieved by January 22, 2003.						
07/08/2003	The Special Magistrate subsequently held a hearing on the original violations and found the subject property owner in violation of City of Key West Code of Ordinances Sec. 14-37, Building Permits Required. The Special Magistrate assessed a One Hundred Dollar, (\$100.00), Administrative Fee and a Fine of Ten Thousand Dollars, (\$10,000.00).						
09/15/2003	The property owner filed an appeal to the Special Magistrate's ruling to Circuit Court (Case no. 03-AP-1083-K).						
11/19/2004	The property owner achieved compliance.						
02/02/2006	The following Liens were recorded with the Monroe County Clerk of Courts against the former property owner: <table border="1" data-bbox="365 934 1469 1050"> <thead> <tr> <th style="text-align: center;">Book/Page No.</th> <th style="text-align: center;">Amount</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">2184/125</td> <td style="text-align: right;">\$281,100.00</td> </tr> <tr> <td style="text-align: center;"><b>TOTAL</b></td> <td style="text-align: right;"><b>\$281,100.00</b></td> </tr> </tbody> </table>	Book/Page No.	Amount	2184/125	\$281,100.00	<b>TOTAL</b>	<b>\$281,100.00</b>
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2184/125	\$281,100.00						
<b>TOTAL</b>	<b>\$281,100.00</b>						
01/19/2007	The Appeal was dismissed for Failure to Prosecute.						
02/20/2015	The Bank paid Fifty Thousand Dollars (\$50,000.00) to the City which granted a partial release of the lien (Res. 15-012). According to the available records, this reduced the amount of the lien to Two Hundred and Thirty-One Thousand One Hundred Dollars, (\$231,100.00).						

The applicant is requesting a reduction in the judgement. With credit for the previous \$50,000 payment made by the Bank and the current offer of \$35,000 for a total payment of \$85,000 would result in an overall reduction of the amount to approximately 30% of the total balance of \$281,100.00.

## **Mitigation Factors**

The following criteria was considered by Staff in evaluating the lien mitigation request:

### **A. The nature and gravity of the violation.**

Failure to obtain building permits is typically considered to be a violation with a component of hazard, not only to the property owner but to the surrounding neighborhood due to the fact there is no guarantee proper City and building codes were followed during construction. Additionally, the former owner disobeyed a work stop order.

### **B. Any actions taken by the Respondent to correct the violation.**

The former owner appealed the Special Magistrate's findings and did not come into compliance until November 19, 2004, over two years after the initial violation.

### **C. The length of time between the previously ordered compliance date and the date the violation was brought into compliance.**

The code violation was brought into compliance on November 19, 2004, 667 days after the deadline imposed by the Special Magistrate. The Respondent did appeal to Circuit Court and the appeal lasted several years before it was dismissed by the Court for non-prosecution.

### **D. Any actual costs expended by the Respondent to cure the violation as provided by supporting documentation.**

The Bank which took possession of the property requested and received a partial lien release and paid the City \$50,000 towards the total fine.

### **E. Any other prior or current violations committed by the Respondent on the subject property or upon any other property owned by the Respondent within the City.**

There are currently no code violations on the property or any other properties owned by the Former Owner. Additionally, this property also had an outstanding sewer account which was settled by the Bank for \$5,000.00 when the Bank requested a partial lien release back in 2015.

Lastly, the Former Owner and current applicant went before the Special Magistrate recently with respect to an unrelated code case fine in the amount of \$16,250.00. The Special Magistrate reduced the fine to \$8,125.00, payable within thirty (30) days.

### **F. Owner's Justification for the requested lien mitigation.**

None has been provided to staff at this time.

### **G. Any other factors.**

None that staff is aware of or that Applicant has provided to staff.

**Recommendation**

Staff recommends the Commission hear from the applicant/representative, and determine the appropriate mitigation amount for the lien, if any.

Should the Commission approve a mitigated amount, the Commission should require full payment of that mitigated amount on or before April 15, 2022, and direct Staff to provide the applicant/representative with a Release of Lien for recording with the Monroe County Clerk of the Courts but only upon receipt of the entire mitigated amount on or before April 15, 2022.