

## EXECUTIVE SUMMARY

**TO:** Bogdon Vitas, City Manager  
**FROM:** Mark Z. Finigan, Assistant City Manager - Administration  
**DATE:** August 28, 2012  
**SUBJECT:** 923 Eaton Street  
Release of Lien



### **Action statement:**

Request City of Key West City Commission consider the mitigated amount of \$30,000 of accrued fines of \$186,750.00 for the property located at 923 Eaton Street. Request City of Key West City Commission considers the request to release the lien placed by the City of Key West on the subject property 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).

City Commission on August 21, 2012 declined the offer of \$20,000 from Nicolas Vanhook of McCalla Raymer, LLC, representing Bank of New York Mellon. Subsequently, the Bank of New York Mellon requested through their representative to increase their offer from \$20,000 to \$30,000 and bring back before the City Commission for consideration.

### **Background:**

On December 18, 2009 the City of Key West received a complaint that this lot was overgrown, had trash and debris, was harboring rats and there was evidence of water pooling causing mosquito infestation. A letter was issued on December 21, 2009.

On January 6, 2010 a Notice of Code Violation was sent certified mail. Corrective action was to be taken within ten days of the receipt of the notice January 11, 2010.

On January 31, 2010 a Notice of Administrative Hearing was sent certified mail for the hearing on February 24, 2010.

The hearing was held February 24, 2010 and a Findings of Fact, Conclusions on Law and Order was issued for failure to bring the property into compliance. Administrative Costs of \$250.00 were imposed along with a fine of \$250.00 per day if compliance was not met by March 8, 2010. A compliance hearing was held on March 24, 2010.

A Notice of Non-Compliance Payment Update was sent via certified mail on April 21, 2010 stating that compliance had not been achieved and the fines had accrued to \$11,250.00.

A Notice of Lien Hearing was issued on June 18, 2010 for a hearing to be held on July 28, 2010.

A lien was filed on July 29, 2010 with the County and a copy was sent to the owner of record, JP Morgan Chase.

On August 4, 2010 a letter was received from Chase Home Finance LLC (a subsidiary of JP Morgan Chase) requesting more information.

On October 10, 2010 a letter was sent to Chase Home Finance LLC along with a copy of the Summary Final Judgment in Foreclosure, Certificate of Sale and Certificate of Title.

On November 16, 2011 an email was received from Coldwell Banker Schmitt asking if there were any code violations for this property. Reply sent the same day explaining the code violation and that a lien was filed with the amount of fines that had accrued.

On February 3, 2012 an email was received from Nicholas Vanhook of McCalla Raymer, LLC (attorney for the bank) requesting to speak with the clerk over the phone to discuss the case. Call was made.

On March 23, 2012 an email was received from Danielle Spradley of McCalla Raymer, LLC asking if the property was in compliance.

On March 26, 2012 sent email to Danielle Spradley that the property had been cleaned up and the fines had stopped accruing on March 23, 2012.

On July 2, 2012 Nicolas Vanhook of McCalla Raymer, LLC, representing Bank of New York Mellon, offered \$5,000 to settle the code violation. Offer denied by City.

On Aug 2, 2012 an email was received from Nicolas Vanhook of McCalla Raymer, LLC, representing Bank of New York Mellon, offered \$20,000 to settle the code violation. Staff recommends accepting the \$20,000 to settle in full the code violation.

**Recommendation:**

Request City of Key West City Commission consider the mitigated amount of \$30,000 of accrued fines of \$186,750.00 for the property located at 923 Eaton Street. Request City of Key West City Commission considers the request to release the lien placed by the City of Key West on the subject property 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).