

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Satisfaction of Code Enforcement Lien – Mark S. Craig, Respondent, Case # 99-41A-CEB and 99-61A-CEB, Parcel # 28-21-32-501-0D00-0120, 825 Nocturne Drive, Seminole County

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Donald S. Fisher **CONTACT:** Deborah Leigh **EXT.** 7487

Agenda Date <u>04-8-03</u>	Regular <input type="checkbox"/>	Consent <input checked="" type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input type="checkbox"/>	Public Hearing – 7:00 <input type="checkbox"/>		

MOTION/RECOMMENDATION:

Authorize the Chairman to execute satisfaction of lien on Tax Parcel # 28-21-32-501-0D00-0120, 825 Nocturne Drive, Chuluota, Mark S. Craig

District 1 - Maloy (Deborah Leigh-Code Enforcement)

BACKGROUND:

On May 27, 1999 and August 26, 1999, the Seminole County Code Enforcement Board issued its Findings of Fact, Conclusions of Law and Order on case numbers 99-41A-CEB and 99-61A-CEB. The orders required the respondent, Mark S. Craig, to comply with County Code or fines would be imposed.

On September 21, 1999, the code inspector inspected the property and found the property remained in violation and filed an affidavit of non-compliance.

On January 27, 2000, a lien was filed and recorded in the amount of \$32,250.00 and a fine of \$250.00 per day was ordered and continued past the date of the order. The property remained in violation with the lien continuing to accrue.

On March 22, 2000, an inspection revealed the property was in compliance and an affidavit of compliance was filed and recorded.

In summary, there were two violations that existed on the property located at 825 Nocturne Drive, Chuluota, which resulted in two Code Enforcement Board actions against the owner, Mr. Mark Craig. Case number 99-41A-CEB resulted in a lien in the amount of \$10,500.00 and case number 99-61A-CEB resulted in a lien in the amount of \$42,750.00 for a total lien amount of \$53,250.00.

Reviewed by:
Co Atty: <u>KCC</u>
DFS: _____
Other: <u>MWJ</u>
DCM: <u>SS</u>
CM: <u>KB</u>
File No: <u>cpdp02</u>

\$10,500.00 and case number 99-61A-CEB resulted in a lien in the amount of \$42,750.00 for a total lien amount of \$53,250.00.

On February 25, 2003, the Board of County Commissioners reduced the amount of the lien to \$4,275.00. On March 17, 2003 the Code Enforcement Office received payment in the amount of \$4,275.00.

STAFF RECOMMENDATION

Authorize the Chairman to execute a Satisfaction of Lien for Code Enforcement Board Case Number's 99-41A-CEB and 99-61A-CEB, Tax Parcel # 28-21-32-501-0D00-0120 in the amount of \$4,275.00.

RECEIPT 925 Nocturne Dr. No 52352

SEMINOLE COUNTY, FLORIDA

Date 3-18 2003

Jerry

Received from Case No. 99-61A-CEB

Address 99-41A-CEB

Account Number	Amount	Description
<u>A4275.00</u>	<u>↓</u>	<u>Engineering</u>

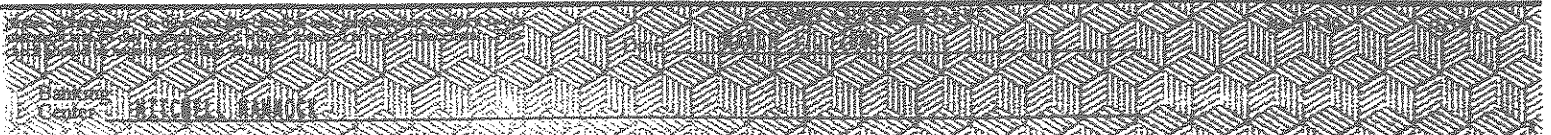
<u>A4275.00</u>	<u>↓</u>	<u>Fine</u>
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Total Amount 25983.40

Board of County Commissioners

Check No. 2598340 Cash

By [Signature]



Bank of America
Center

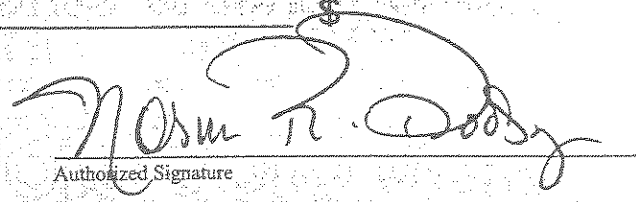
0001388 00002 2598340

ROBERT T. CRAIG
Remitter (Purchased By)

***4275.00**

Pay **FOUR THOUSAND TWO HUNDRED SEVENTY FIVE DOLLARS AND 00 CENTS**

To
The
Order ****SEMINOLE COUNTY BCC****
Of ********


Authorized Signature

Bank of America, N.A.
San Antonio, Texas

09-14-3725B 6-2001

COPYING AND REPRODUCTION OF THIS CHECK IS STRICTLY PROHIBITED.

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**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

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SUBJECT: Code Enforcement Lien – Mark S. Craig, Respondent, Respondent, Case # 99-41A-CEB and 99-61A-CEB, Parcel # 28-21-32-501-0D00-0120, 825 Nocturne Drive, Chuluota, Seminole County

DEPARTMENT: Planning & Development **DIVISION:** Planning / Code Enforcement

AUTHORIZED BY: Sally Sherman **CONTACT:** Deborah Leigh **EXT.** 7487

Agenda Date	<u>02-25-03</u>	Regular	<input checked="" type="checkbox"/>	Consent	<input type="checkbox"/>	Work Session	<input type="checkbox"/>	Briefing	<input type="checkbox"/>
		Public Hearing – 1:30	<input type="checkbox"/>	Public Hearing – 7:00	<input type="checkbox"/>				

MOTION/RECOMMENDATION:

(A) Approve the request to rescind the Code Enforcement Board lien on case number 99-41A-CEB in the amount of \$10,500.00 and on case number 99-61A-CEB in the amount of \$42,750.00 on the property located at 825 Nocturne Drive, Lot 12, Blk D, Lake Mills Shores, PB 11, Pg. 14, in Chuluota, and authorize the Chairman to sign and execute the satisfaction of lien; or

(B) Approve a reduction of the Code Enforcement Board lien on case numbers 99-41A-CEB and 99-61A-CEB on the property located at 825 Nocturne Drive, Lot 12, Blk D, Lake Mills Shores, PB 11, Pg. 14, in Chuluota, and upon payment in full, authorize the Chairman to sign and execute the satisfaction of lien; or

(C) Approve a reduction to the Code Enforcement Board lien from the total of \$53,250.00 to the estimated administrative costs of \$729.36 for processing case numbers 99-41A-CEB and 99-61A-CEB, located at 825 Nocturne Drive, Lot 12, Blk D, Lake Mills Shores, PB 11, Pg. 14, in Chuluota, and upon payment in full, authorize the Chairman to sign and execute the satisfaction of lien; or

(D) Deny the request to rescind or reduce the Code Enforcement Board liens on case numbers 99-41A-CEB and 99-61A-CEB on the property located at 825 Nocturne Drive, Lot 12, Blk D, Lake Mills Shores, PB 11, Pg. 14, in Chuluota

District 1 – Maloy (Deborah Leigh-Code Enforcement)

BACKGROUND:

On May 30, 1997, the Code Enforcement Office received a complaint of a garage being constructed on property located at 825 Nocturne Dr., Chuluota. On June 5, 1997 a permit was issued and the complaint was closed. On August 3, 1998 a complaint was received in reference to the permit being expired and construction continuing, along with junk

Reviewed by:
Co Atty: <u>SL</u>
DFS:
Other: <u>[Signature]</u>
DCM: <u>[Signature]</u>
CM: <u>[Signature]</u>
File No: <u>rpdp01</u>

vehicles and uncultivated vegetation. An inspection revealed several vehicles that were operable and no uncultivated violation. The building permit for the garage had expired and a notice of violation was sent to the owner by the Building Department.

On December 1, 1998 an additional complaint was received from the Sheriff's Office in reference to an auto body shop operating from the site. An inspection revealed the vehicles were owned by the occupant and the case was closed.

On June 24, 1999 another complaint was received concerning the repair of vehicles being conducted on the site. The Code Enforcement Office began to monitor the site on a regular basis, taking pictures and documenting the turnover of vehicles.

A notice of violation was issued on April 13, 1999 for use of the unpermitted garage and on July 15, 1999 for the operation of a business or an extension of a business on the residential property not being a permitted use and junked/inoperable vehicles.

Request for Hearings was filed with the Clerk to the Code Enforcement Board on April 30, 1999 for the garage under construction without a valid permit and on July 30, 1999 for the junked/inoperable vehicles and operation or extension of a business.

Notice of these hearings were mailed to the respondent by certified mail and received. There was no respondent present at the Code Enforcement Hearings.

On May 27, 1999, the Seminole County Code Enforcement Board issued its Findings of Fact, Conclusions of Law and Order on case number 99-41A-CEB, stating the property was presently in compliance, having renewed the garage permit. If repeated, however, a fine of \$250.00 a day would be imposed. This case was closed at this time.

On August 26, 1999, the Seminole County Code Enforcement Board issued its Findings of Fact, Conclusions of Law and Order on case number 99-61A-CEB, requiring the property to come into compliance on or before September 20, 1999, by removing or repairing any junked/inoperable vehicle on the site and to cease any auto repair.

On September 21, 1999, an inspection revealed the violations on case number 99-61A-CEB still remained on the site and an affidavit of non-compliance was filed.

On January 27, 2000, the Code Enforcement Board issued an Order imposing fine/lien in the amount of \$32,250.00 on case number 99-61A-CEB, and further ordered the fine to continue accruing at \$250.00 a day until compliance was met.

On March 22, 2000, an inspection revealed compliance had been met, and an affidavit of compliance was filed. The total amount of the lien accumulated to \$42,750.00 on case number 99-61A-CEB.

On February 22, 2001, the Code Enforcement Board authorized forwarding case number 99-61A-CEB to the County Attorney's Office for possible foreclosure. A memo from Steve Lee dated March 14, 2001 indicated the property was homesteaded, and foreclosure is not permitted under Section 162.09 (3), Florida Statutes; a suit, however, to recover a money judgment could be allowed with the approval of the County Commissioners.

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On August 20, 2002, an additional complaint was received in reference to auto repairs being conducted. An inspection along with pictures submitted from the complainant revealed the violation of junk/inoperable vehicles and auto repairs were being conducted on the property.

On September 13, 2002 a notice of repeat violation was sent to Mark Craig and an affidavit of repeat violation was filed with the Clerk of the Code Enforcement Board. An inspection on January 9, 2003 revealed the property in compliance in that there were no vehicles on the site, and an affidavit of compliance prior to hearing was filed. The case was closed at this time.

On case number 99-41A-CEB, an additional complaint was received in reference to the building permit for the garage being expired again. Research on July 11, 2000 indicated the permit had expired and an affidavit of repeat violation was filed.

On August 24, 2000, the permit was reinstated and an affidavit of compliance was filed. The property remained in violation for a period of 42 days. On August 24, 2000, the Code Enforcement Board issued an Order of Repeat Violation, with the property presently in compliance finding the respondent in violation from July 11, 2000 until August 24, 2000 and imposed a fine of \$250.00 a day, totaling \$10,500.00.

In summary, there were two violations that existed on the property located at 825 Nocturne Drive, Chuluota, which resulted in two Code Enforcement Board actions against the owner, Mr. Mark Craig. Case number 99-41A-CEB resulted in a lien in the amount of \$10,500.00 and case number 99-61A-CEB resulted in a lien in the amount of \$42,750.00 for a total lien amount of \$53,250.00. The current just market value on the property, as determined by the Seminole County Property Appraiser's Office is \$89,781.00.

On January 13, 2003, Mr. Craig contacted the Code Enforcement Office for information concerning the liens and the process for requesting the liens to be rescinded or reduced. On January 19, 2003, the Code Enforcement Office received Mr. Craig's request to rescind the liens, a copy of which is attached.

The Board's guidelines for reducing liens adopted February 9, 1999 are identified below:

1. If an individual has acquired a property in which the lien was recorded and the individual bought the property with this knowledge, a waiver or reduction in lien should not be granted. In such cases the lien should have been considered in reaching a purchase price.
2. If a lien is not considered when a title insurance policy is issued, a reduction of the lien to provide relief to a title insurer should not be granted. To do so would place the County in the position indemnifying an insurance company against its losses, which are reflected in premium charges.
3. If a lien has previously been reduced, and another request is received for a lien reduction, whether from the original property owner or a new owner, a reduction or waiver should not be granted. If the BCC Grants relief to a violator its action should be final and conclusive.

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4. When considering a request and in developing a recommendation to the BCC, staff should evaluate the amount of the lien compared to the value of the property and the actions the violator did or did not take in attempting to resolve the code violation.
5. When liens are satisfied as a result of either full payment or reduced/eliminated payment as directed by the BCC, the lien satisfaction instrument will be provided to the property owner who shall be responsible for recording the instrument in the land records.

STAFF RECOMMENDATION:

According to Chapter 162, Florida Statute, in determining the amount of the fine, the Code Enforcement Board considers the following factors:

1. The gravity of the violation;
2. Any actions taken by the violator to correct the violation; and
3. Any previous violations committed by the violator.

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Based on the following facts:

1. The property is in compliance;
2. The property is being offered for sale;
3. The violations continued to repeat, after notification; and
4. With the repeating of the violations, the neighbors had concerns, as they felt it became an extreme nuisance and safety hazard for their community.

Staff would recommend a reduction of the lien on CEB case numbers 99-41A-CEB and 99-61A-CEB from \$53,750.00 to \$5,375.00 based on the severity of the case and the nuisance created for an extended period of time, 10% of the original lien amount, and upon payment in full, authorize the Chairman to sign and execute the satisfaction of lien. (Option B)

Attachments for Case Number 99-41A-CEB:

05/27/1999 Findings of Fact, Conclusions of Law and Order
 06/01/1999 Affidavit of Compliance
 08/01/2000 Affidavit of Repeat
 08/24/2000 Affidavit of Compliance (on repeat violation)
 08/24/2000 Order Finding Repeat Violation Imposing Fine/Lien

Attachments for Case Number 99-61A-CEB:

08/26/1999 Findings of Fact, Conclusions of Law and Order
 09/21/1999 Affidavit of Non-Compliance
 01/27/2000 Order Imposing Fine/Lien
 03/22/2000 Affidavit of Compliance
 03/14/2001 Memo from County Attorney's Office
 08/26/2002 Affidavit of Repeat Violation
 01/09/2003 Affidavit of Compliance (on repeat violation)

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01/19/2003 Request from Mark Craig for reduction of penalty
 Property Appraiser Database Information
 Estimated Costs for processing Case Numbers 99-41A-CEB and 99-61A-CEB

**SATISFACTION OF LIEN
AS TO PARTICULAR PARCEL**

THIS instrument disclaims and releases the lien imposed by the Order Imposing Penalty/Lien, issued by the Seminole County Code Enforcement Board in Case No. 99-41A-CEB and 99-61A-CEB filed against MARK CRAIG and filed by and on behalf of Seminole County, on March 2, 2000, and recorded in Official Records Book 3809, Pages 0347 & 0348, of the Public Records of Seminole County, Florida, against the following described real property:

LOT 12 BLK D LAKE MILLS SHORES PB 11 PG 14

The undersigned is authorized to and does hereby disclaim and release the lien as to the whole of the above described real property, and consents that the same be discharged of record.

DATED this 8th day of April, 2003.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida

By: _____
DARYL MCLAIN, Chairman

Date:

For the use and reliance
of Seminole County only.
Approved as to form and
legal sufficiency.

As authorized for execution by the
Board of County Commissioners at their
April 8, 2003 regular meeting.

County Attorney

ceb/releaselienraig