

Recording of notice of lis pendens

Number: AGO 93-77

Date: September 25, 1995

Subject:
Recording of notice of lis pendens

Mr. Herbert Elliott
City Attorney
City of Tarpon Springs
Post Office Box 1575
Tarpon Springs, Florida 34286-1575

RE: LOCAL GOVERNMENT CODE ENFORCEMENT BOARDS--MUNICIPALITIES--LIS
PENDENS--recording of notice of lis pendens bars foreclosure of code enforcement lien
recorded after recording of notice of lis pendens. s. 48.23, F.S.

Dear Mr. Elliott:

You ask substantially the following question:

Does notice of lis pendens, recorded pursuant to s. 48.23, F.S., prior to a code enforcement board lien recorded pursuant to Ch. 162, F.S., operate to bar the foreclosure of the code enforcement lien where the proceeding for which notice of lis pendens was recorded has been prosecuted to judicial sale and the property sold to a good faith purchaser?

In sum:

The recording of a notice of lis pendens pursuant to s. 48.23, F.S., bars the foreclosure of a code enforcement lien recorded after the notice of lis pendens where the proceeding for which notice of lis pendens was recorded has been prosecuted to judicial sale and the property sold to a good faith purchaser.

Chapter 162, F.S., the Local Government Code Enforcement Boards Act, seeks to provide "an equitable, expeditious, effective, and inexpensive method of enforcing any codes and ordinances in force in counties and municipalities, where a pending or repeated violation continues to exist." [1] Local governments are authorized to create one or more code enforcement boards which may, among other things, impose administrative fines. [2]

Section 162.09(3), F.S., provides that a certified copy of the order imposing a fine recorded in the public records shall constitute a lien against the land on which the violation exists. The Act does not provide for the priority of such lien. You note, however, that the Second District Court of Appeal struck down a county ordinance that provided that a code enforcement lien was superior to other existing liens. [3]

The doctrine of "lis pendens" has been generally defined as the jurisdiction, power or control that courts acquire over property that is involved in a suit pending the continuance of the action and until final judgment in such action.[4] The purpose of notice of lis pendens is to warn all persons that title to the property is in litigation and that they are in danger of being bound by an adverse judgment.[5]

Section 48.23(1)(a), F.S., provides that no action in any of the state or federal courts in this state operates as a lis pendens on any real or personal property until a notice of the commencement of the action is recorded in the office of the clerk of circuit court of the county where the property is located. Such notice must contain the names of the parties, the time the action was instituted, the name of the court in which it is pending, a description of the property involved or affected, and a statement of the relief sought as to the property. Section 48.23(1)(b), F.S., provides:

"The filing for record of such notice of lis pendens shall constitute a bar to the enforcement against the property described in said notice of lis pendens of all interests, except for interests of persons in possession, or easements in use and liens including but not limited to federal tax liens and levies, unrecorded at the time of filing for record such notice of lis pendens unless the holder of such unrecorded interest or lien shall intervene in such proceedings within 20 days after the filing and recording of said notice of lis pendens. If the holder of any such unrecorded interest or lien does not intervene in the proceedings and if such proceedings are prosecuted to a judicial sale of the property described in said notice of lis pendens, the said property shall be forever discharged from all such unrecorded interests and liens. In the event said notice of lis pendens is discharged by order of the court, the same shall not in any way affect the validity of any unrecorded interest or lien."[6] (e.s.)

Thus, the statute imposes a bar against the enforcement against the property described in the notice of lis pendens of liens unrecorded at the time of the filing of the notice of lis pendens. Moreover, the statute specifically provides that if the proceedings are prosecuted to a judicial sale of the property described in the lis pendens notice, the property is forever discharged from "all such unrecorded interests and liens." The term "such" has generally been defined as referring back to and identifying something previously described or specified.[7] Thus, the phrase "all such unrecorded interests and liens" (e.s.) would appear to refer to the antecedent description of interests and liens, *i.e.*, those liens that were unrecorded at the time of the filing of the notice of lis pendens.

Your inquiry concerns a code enforcement lien recorded after the filing of the notice of lis pendens. Thus, s. 48.23, F.S., would appear to bar the enforcement of such lien against the property described in the notice of lis pendens unless the city, as holder of the unrecorded lien, intervenes within 20 days after the filing and recording of the notice of lis pendens or the notice of lis pendens is discharged by order of the court.[8] If the proceedings are prosecuted to judicial sale of the property described in the notice of lis pendens, such property would be discharged from liens unrecorded at the time of filing.

Sincerely,

Robert A. Butterworth
Attorney General

[1] Section 162.02, F.S.

[2] See s. 162.05, F.S., providing for the organization of such boards; and s. 162.09, F.S., authorizing the imposition of administrative fines by an enforcement board upon notification by the code inspector that an order of the board has not been complied with by the set time or upon finding that a repeat violation has been committed.

[3] *Sarasota County v. Andrews*, 573 So.2d 113 (2 D.C.A. Fla., 1991).

[4] See *De Pass v. Chitty*, 105 So. 148 (Fla. 1925); *Marchand v. DeSoto Mortgage Company*, 149 So.2d 357 (2 D.C.A. Fla., 1963). And see 35 Fla. Jur.2d *Lis pendens* s. 1.

[5] See *Ross v. Breder*, 528 So.2d 64 (3 D.C.A. Fla., 1988); *Berkley Multi-Units, Inc. v. Linder*, 464 So.2d 1356 (4 D.C.A. Fla., 1985) (purpose of *lis pendens* is to alert creditors, prospective purchasers and others that title to property is involved in litigation).

[6] See s. 48.23(2), F.S., which provides that the notice of *lis pendens* is not effectual beyond one year from the commencement of the action unless the relief sought is disclosed by the initial pleading to be founded on a duly recorded instrument or on a lien claimed under Part I, Ch. 713, F.S., against the property involved, except when the court extends the time on reasonable notice and for good cause.

[7] See Webster's Third New International Dictionary *Such* p. 2283 (unabridged ed. 1981) (having a quality already or just specified, used to avoid repetition); 83 C.J.S. *Such* p. 771.

[8] As noted *supra*, s. 48.23(2), F.S., provides that a notice of *lis pendens* is not effectual beyond one year from the commencement of the action unless the relief is founded on a duly recorded instrument or lien claimed under Part I, Ch. 713 or the court extends the time on reasonable notice and for good cause. Section 48.23(4), F.S., states that the period of time mentioned above does not include the period of pendency of any action in an appellate court.

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR HERNANDO COUNTY, FLORIDA

BOK, LLC and DAVID LEE CLINTON WOOD,

Plaintiffs,

vs.

Case No.: 2024-CA-1040

JOSEPH PONTANO, III, ASHLEY MARIE
MILLIKEN, HERNANDO COUNTY
ANIMAL SERVICES DEPARTMENT,
CAPITAL ONE BANK (USA), N.A.,
CREDIT ACCEPTANCE CORP.,
AND HERNANDO COUNTY, FLORIDA,

Defendants.

**DEFENDANTS HERNANDO COUNTY, FLORIDA AND HERNANDO COUNTY
ANIMAL SERVICES DEPARTMENT'S CONSENT TO COMPLAINT FOR
FORECLOSURE AND DESIGNATION OF EMAIL ADDRESSES**

Defendants, **HERNANDO COUNTY, FLORIDA and HERNANDO COUNTY
ANIMAL SERVICES DEPARTMENT** (hereinafter jointly the "County") by and through its
undersigned counsel and pursuant to Rule 1.100(a) of the Florida Rules of Civil Procedure, file
this Consent to Complaint and Designation of Email Addresses and says:

1. County admits that this Court has personal and subject matter jurisdiction and accepts service of Plaintiffs' Complaint.
2. County admits it has some claim or demand in the real property sought to be foreclosed by virtue of the two Special Master's Orders identified in Paragraphs 12 and 13 of Plaintiffs' Complaint, copies of which are attached hereto as **Composite Exhibit A**. After payment of Plaintiffs' claims, County hereby makes claim to any surplus proceeds generated from the judicial sale based upon these documents.

Additionally, County admits it has some claim or demand in the real property sought to be foreclosed by virtue of the Public Nuisance Abatement Special Assessment Lien identified in Paragraph 15 of Plaintiffs' Complaint, a copy attached hereto as **Exhibit B**; however, that lien is unenforceable and County consents to its foreclosure.

3. County is without knowledge of all other allegations in the Complaint; therefore, denied.

4. Pursuant to Rule 2.516 of the Florida Rules of Judicial Administration and the Supreme Court Administrative Order SC 10-2101 regarding email service rule, County hereby designates the following email addresses for the purpose of receiving pleadings:

Michael B. Cowan, Esq.: MCowan@co.hernando.fl.us

Secondary: cao@co.hernando.fl.us

Jon A. Jouben, Esq.: JJouben@co.hernando.fl.us

Secondary: cao@co.hernando.fl.us

WHEREFORE, County consents to this Court's entry of a Final Judgment foreclosing Plaintiffs' lien and the interests held by County in the subject property and requests that it be allowed to make claim to any surplus funds to satisfy its claims.

(Certificate of Service on Following Page)

THE UNDERSIGNED CERTIFIES that a true and correct copy of the foregoing has been sent by the Florida e-filing portal to **James A. Boyko, Esq.**, counsel for Plaintiffs, BOK, LLC, and David Lee Clinton Wood, at 2225 Claremont Lane, Spring Hill, Florida 34609 at jamesaboyko@gmail.com on the 4th day of December 2024.



MICHAEL B. COWAN

FL Bar No.: 114060

MCowan@co.hernando.fl.us

cao@co.hernando.fl.us

JON A. JOUBEN

FL Bar No.: 149561

JJouben@co.hernando.fl.us

cao@co.hernando.fl.us

Attorneys for Hernando County

20 North Main Street, Suite 462

Brooksville, FL 34601

352-754-4122/fax 352-754-4001

Return to CAO
Rm 462

BEFORE THE SPECIAL MASTER
IN AND FOR HERNANDO COUNTY, FLORIDA

HERNANDO COUNTY, a political
subdivision of the State of Florida,
Plaintiff,

vs.

Case No. 2023-29522

ASHLEY MILLIKEN,
Defendant.

SPECIAL MASTER'S ORDER

THIS MATTER came before the Special Master for hearing on December 13, 2023, after notice to the Defendant, on Citations #29522-H and #29522-H1 issued by the Plaintiff, HERNANDO COUNTY ANIMAL SERVICES, 19450 Oliver St., Brooksville, Florida 34601, to the Defendant, ASHLEY MILLIKEN, 9485 Rousseau St., Webster, FL 33597. The citations were signed for by the Defendant. A Notice of Hearing was mailed to the Defendant by certified mail, return receipt requested, which was signed for at the Defendant's address. The Defendant appeared pro se and the Plaintiff was represented by MELISSA A. TARTAGLIA, ESQ., Assistant Hernando County Attorney.

A hearing was conducted by the Special Master into the allegations brought by the Plaintiff. The Plaintiff presented witnesses and evidence and the Defendant was afforded an opportunity to cross examine those witnesses, review the evidence presented, and present witnesses and evidence on her own behalf. The Defendant argued on her own behalf.

The Special Master heard the testimony of Hernando County Animal Services Officer, ELYSE DIMARTINO, and the Defendant.

Upon CONSIDERATION, the Special Master finds as follows:

A. Upon testimony and evidence presented, Officer Dimartino testified that on September 15, 2023 she was dispatched to the Defendant's address, 9485 Rousseau St., Webster, Hernando County, Florida regarding an endangered animal complaint. Officer Dimartino testified that upon arrival she observed a Great Dane in the front yard. The dog was thin. The Defendant came out of the house and Officer Dimartino asked why the dog was so thin? The Defendant replied the dog was not getting enough food. Officer Dimartino testified that the dog's bones were popping out and protruding. The Great Dane was in an enclosure with another dog and the other dog was eating all of the food. There were several other dogs which were also thin, had no shelter, and no water. There were two rabbits with no water. One adult goat had overgrown hooves. Multiple animals had no water. Officer Dimartino testified that the temperature was 94° outside per her Animal Services vehicle.

B. The Defendant testified that on that day she had no time to get things done. She has spent two

Composite Exhibit A

weeks in bed. She fell at work and broke her foot. Then she contracted Covid and that day was just getting over the infection. She was depending heavily on her seven kids ages 4-18 years old. Since Officer Dimartino's visit she has been on top of things. She had trouble finding a farrier to take care of the goat's hooves.

C. On a question by Ms. Tartaglia the Defendant stated she had an accident at work the week before Officer Dimartino visited. She was a kennel worker at Sumter County Animal Control for three months.

D. The Special Master was advised that Officer Dimartino did not return but Officer Keith Berger followed up. Officer Berger testified that all dogs except one now have shelters. The Great Dane looks the same but all of the animals have water and all have food.

UPON THESE FINDINGS, it is therefore ORDERED:

1. Regarding citation #29522-H and the charge of tethering one dog, the Defendant, ASHLEY MILLIKEN, is found GUILTY of tethering one dog in violation of Hernando County Code of Ordinances Section 6-34.

a) The Defendant shall pay a civil penalty in the amount of \$100.00 payable to the Animal Services Department, 19450 Oliver St., Brooksville, Florida 34601, pursuant to Hernando County Code of Ordinances 2004-09, Section 4(a)(1).

2. Regarding citation #29522-H1 and the charge of animal mistreatment of 11 animals, the Defendant, ASHLEY MILLIKEN, is found GUILTY of animal mistreatment of 11 animals in violation of Hernando County Code of Ordinances Section 6-29c.

a) The Defendant shall pay a civil penalty in the amount of \$25.00 per dog (\$275.00 total), payable to the Animal Services Department, 19450 Oliver St., Brooksville, Florida 34601, pursuant to Hernando County Code of Ordinances 2004-09, Section 4(a)(1).

3. That pursuant to authority granted by Chapter 2, Article III, Section 2-54(k) of the Hernando County Code of Ordinances and Section 162.09(2)(d), Florida Statutes, the Defendant is hereby ordered to pay administrative and investigative costs on behalf of the Animal Services Department in the amount of \$70.00, on behalf of the County Attorney in the amount of \$100.00 and certified mailing costs in the amount of \$17.52 payable to the Hernando County Animal Service Department.

4. The total of penalties and costs due and payable to the Plaintiff, Hernando County Animal Services Department, 19450 Oliver St., Brooksville, Florida 34601 is \$562.52. This order shall bear interest at the legal rate established pursuant to Section 55.01, Florida Statutes, beginning 30 days after the clerk signs this order. FOR WHICH LET EXECUTION NOW ISSUE. In the event that this Special Master's Order is recorded in the public records pursuant to paragraph 5, herein, Hernando County shall be entitled to collect for their actual costs of recording this Order and a Satisfaction, which additional costs shall be added to the total of penalties and costs stated herein.

5. If the Defendant fails to comply with this Order within 30 days, pursuant to Section 10 of


Ordinance 2004-09, Hernando County Code of Ordinances, a certified copy of this Order shall be recorded in the public records of Hernando County, Florida and wherever else the Defendant may live or own property and thereafter shall constitute a lien against real and personal property owned by the Defendant.

REQUESTS FOR FURTHER REVIEW shall be addressed as follows:

An aggrieved party, including the local governing body, may appeal a decision of the Special Master to the Circuit Court. Such appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Master. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

YOU ARE FURTHER advised that if you decide to seek further review of any decision made by the Special Master with respect to any matter considered at such hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the further review is to be based. Production of verbatim transcripts shall be the responsibility and at the personal expense of the party seeking review of the Special Master's Order.

DONE AND ORDERED at Brooksville, Hernando County, Florida this 17th day of February, 2024.

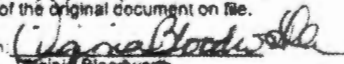

KENNETH L. WARNSTADT
Special Master

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Special Master's Order has been sent by Regular U.S. Mail and certified mail, return receipt requested, to ASHLEY MILLIKEN, 9485 Rousseau St., Webster, FL 33597 and by Courthouse Mail to Hernando County Animal Services, 19450 Oliver St., Brooksville, FL 34601 on February 28, 2024.


Clerk to Special Master

Pursuant to Section 118.07, Florida Statutes as amended from time to time, as Record Custodian for this document, I hereby certify that this is a true and correct copy of the original document on file.

Record Custodian: 
Print Name: Virginia Bloodworth
Date: 6-10-2024
Hernando County Government, Brooksville, FL
Department/Office: County Attorney's Office

Return to CAO
Rm 462

BEFORE THE SPECIAL MASTER
IN AND FOR HERNANDO COUNTY, FLORIDA

HERNANDO COUNTY, a political
subdivision of the State of Florida,
Plaintiff,

vs.

Case No. 2023-33337

ASHLEY MILLIKEN,
Defendant.

SPECIAL MASTER'S ORDER

THIS MATTER came before the Special Master for hearing on December 13, 2023, after notice to the Defendant, on Citation #33337-H issued by the Plaintiff, HERNANDO COUNTY ANIMAL SERVICES, 19450 Oliver St., Brooksville, Florida 34601, to the Defendant, ASHLEY MILLIKEN, 9485 Rousseau St., Webster, FL 33597. The citation was signed for by the Defendant. A Notice of Hearing was mailed to the Defendant by certified mail, return receipt requested, which was signed for at the Defendant's address. The Defendant appeared pro se and the Plaintiff was represented by MELISSA A. TARTAGLIA, ESQ., Assistant Hernando County Attorney.

A hearing was conducted by the Special Master into the allegations brought by the Plaintiff. The Plaintiff presented witnesses and evidence and the Defendant was afforded an opportunity to cross examine those witnesses, review the evidence presented, and present witnesses and evidence on her own behalf. The Defendant argued on her own behalf.

The Special Master heard the testimony of Hernando County Animal Services Officer, KEITH BERGER, and the Defendant.

Upon **CONSIDERATION**, the Special Master finds as follows:

A. Upon testimony and evidence presented, Officer Berger testified that on October 20, 2023 he responded to the Defendant's address, 9485 Rousseau St., Webster, Hernando County, Florida regarding an anonymous endangered animal complaint. Officer Berger testified that he observed several dogs in poor condition. The Defendant and her husband were not present. One of the children called the parents who arrived shortly. The small dogs were ok but the larger dogs were still thin. This was one month and five days after Officer Elyse Dimartino had observed the dogs in poor condition. All of the dogs had water and the Defendant was building the last shelter that day. Officer Berger tried to get information regarding a dog with a broken leg that was inside the residence. The Defendant said "no" and walked away. There was a puppy in a previous photo to the Great Dane. It was not at the vet five to six days prior. The Defendant said she could not afford a vet. Officer Berger asked Animal Services if he could take the dog. Animal Services said ok and he took the dog to 3 Oaks for an x ray. The dog was picked up by a rescue. The puppy was taken

to Animal Services and later picked up by the Defendant, then got the broken leg, and was back to Animal Services. Officer Berger testified there were seven dogs total.

B. The Defendant testified that she does not have any money. She put a splint on the dog's leg until she could take it to a vet.

UPON THESE FINDINGS, it is therefore ORDERED:

1. Regarding citation #33337-H and the charge of animal mistreatment of 1 dog, the Defendant, ASHLEY MILLIKEN, is found GUILTY of animal mistreatment of 1 dog in violation of Hernando County Code of Ordinances Section 6-29c.

a) The Defendant shall pay a civil penalty in the amount of \$500.00, payable to the Animal Services Department, 19450 Oliver St., Brooksville, Florida 34601, pursuant to Hernando County Code of Ordinances 2004-09, Section 4(a)(1).

2. That pursuant to authority granted by Chapter 2, Article III, Section 2-54(k) of the Hernando County Code of Ordinances and Section 162.09(2)(d), Florida Statutes, the Defendant is hereby ordered to pay administrative and investigative costs on behalf of the Animal Services Department in the amount of \$140.00, on behalf of the County Attorney in the amount of \$100.00 and certified mailing costs in the amount of \$17.52 payable to the Hernando County Animal Service Department.

3. The total of penalties and costs due and payable to the Plaintiff, Hernando County Animal Services Department, 19450 Oliver St., Brooksville, Florida 34601 is \$757.52. This order shall bear interest at the legal rate established pursuant to Section 55.01, Florida Statutes, beginning 30 days after the clerk signs this order. FOR WHICH LET EXECUTION NOW ISSUE. In the event that this Special Master's Order is recorded in the public records pursuant to paragraph 4, herein, Hernando County shall be entitled to collect for their actual costs of recording this Order and a Satisfaction, which additional costs shall be added to the total of penalties and costs stated herein.

4. If the Defendant fails to comply with this Order within 30 days, pursuant to Section 10 of Ordinance 2004-09, Hernando County Code of Ordinances, a certified copy of this Order shall be recorded in the public records of Hernando County, Florida and wherever else the Defendant may live or own property and thereafter shall constitute a lien against real and personal property owned by the Defendant.


REQUESTS FOR FURTHER REVIEW shall be addressed as follows:

An aggrieved party, including the local governing body, may appeal a decision of the Special Master to the Circuit Court. Such appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Master. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

YOU ARE FURTHER advised that if you decide to seek further review of any decision made by the Special Master with respect to any matter considered at such hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings

is made which record includes the testimony and evidence upon which the further review is to be based. Production of verbatim transcripts shall be the responsibility and at the personal expense of the party seeking review of the Special Master's Order.

DONE AND ORDERED at Brooksville, Hernando County, Florida this 13th day of February, 2024.

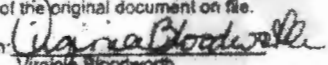

KENNETH L. WARNSTADT
Special Master

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Special Master's Order has been sent by Regular U.S. Mail and certified mail, return receipt requested, to ASHLEY MILLIKEN, 9485 Rousseau St., Webster, FL 33597 and by Courthouse Mail to Hernando County Animal Services, 19450 Oliver St., Brooksville, FL 34601 on February 28, 2024.


Clerk to Special Master

Pursuant to Section 119.07, Florida Statutes as amended from time to time, as Record Custodian for this document, I hereby certify that this is a true and correct copy of the original document on file.

Record Custodian: 
Print Name: Virginia Bloodworth
Date: 6-6-2024
Hernando County Government, Brooksville, FL
Department/Office: County Attorney's Office

**PUBLIC NUISANCE ABATEMENT
SPECIAL ASSESSMENT LIEN**

For Recording Use Only Above Line

This Public Nuisance Abatement Special Assessment Lien is hereby created, established and levied as of the thirty-first (31st) day following the date set forth below, having been brought before and acted upon by the Board of County Commissioners of Hernando County, a political subdivision of the State of Florida, whose address is 20 N. Main Street, Brooksville, FL 34601, pursuant to the Hernando County Code of Ordinances, Chapter 15, Article V, Sec. 15-161 thru 15-168, and Chapters 125 and 197, Florida Statutes:

WHEREAS, County has determined that a public nuisance, as defined by Hernando County Code Sec. 15-163, existed on the subject property legally described below; and,

WHEREAS, County has caused said public nuisance to be abated at County direction at a cost of \$29,258.00.

WHEREAS, Hernando County Code Sec. 15-166 provides for the creation, establishment and levy of a lien in the amount of such expenditure against the property specially benefited, and the subject property described herein has been determined as having been specially benefited

NOW THEREFORE, IT IS HEREBY ORDERED, upon this matter coming before the Hernando County Board of County Commissioners and in consideration of the expenditures by County from its governmental funds heretofore made to specially benefit the subject property described herein, there is hereby created, established and levied by operation of law, running from the thirty-first (31st) day from the date set forth below, a lien upon the following described real property situated and lying in Hernando County, Florida, to wit:

9485 ROUSSEAU STREET, HERNANDO COUNTY, Key 1452582
RERDELL BLK 37 LOTS 1 2 3 4 5 6 7 8 9 LESS HWY 301 R/W ORB 2498 PG 1598 ORB 2015 PG 1074
WORK ORDER 109, CASE 342767, LIEN 342768, TRASH AND DEBRIS

Owner's name: SYKES LEON ESTATE OF

Mailing address: 9485 ROUSSEAU STREET WEBSTER FL 33597-9076

Said lien may be foreclosed by County pursuant to Hernando County Code Sec. 15-166 and in accordance with the procedure set forth in general law or may be enforced in any other manner allowed by law.

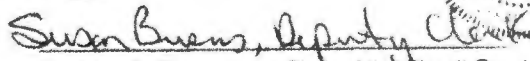
Said lien shall bear interest at the rate of ten percent (10%) per annum from the date hereof until paid in full.

IN WITNESS WHEREOF, Hernando County has set its hand and seal this 9th day of February, 2021.

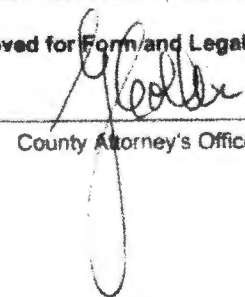
**HERNANDO COUNTY BOARD OF COUNTY
COMMISSIONERS**


John Allocco, Chairman

ATTEST:


Douglas A. Chorvat, Jr., Clerk of the Circuit Court

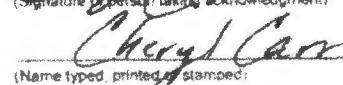
Approved for Form and Legal Sufficiency:

By: 
County Attorney's Office

**STATE OF FLORIDA
COUNTY OF HERNANDO**

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 9th day of February, 2021, by John Allocco, as Chairman of the Hernando County Board of County Commissioners, who is personally known to me or who has produced _____ as identification.


(Signature of person taking acknowledgment)


(Name typed, printed or stamped)

(Title or Rank)



Cheryl Carr
Notary Public
State of Florida
Comm# HH059526
Expires 11/7/2024

Exhibit B



james boyko <jamesaboyko@gmail.com>

County Liens on 9653 Horizon Drive, Spring Hill, Florida 34608

Kyle Benda <KBenda@co.hernando.fl.us>
To: "jamesaboyko@gmail.com" <jamesaboyko@gmail.com>
Cc: Pamela Hare <PHare@hernandocounty.us>

Thu, Jan 6, 2022 at 11:43 AM

Hello Mr. Boyko,

I have had a chance to review your letter dated December 21, 2021 and its attachments. In response, I think that you are correct that the holding of *Ober v. Town of Fort Lauderdale-By-The-Sea* applies to the two County liens because the liens were not created nor recorded until after the Final Judgment in the foreclosure case. Now that the property has been sold at a judicial sale, those liens cannot be enforced.

I am working with our Code Enforcement Department to have two release of liens prepared, which will then be provided to the Board of County Commissioners for the Chairman's signature before recording the releases. If you have any questions in the meantime, please let me know.

Best,



KYLE J. BENDA
Assistant County Attorney

County Attorney's Office

kbenda@hernandocounty.us

A 20 N Main St, Suite 462, Brooksville, FL 34601-2850

P 352-754-4122 | F 352-754-4141
www.hernandocounty.us/

NOTE: Florida has a very broad public records law

Your email communication may now be subject to public records requests

JAMES A. BOYKO
Attorney at Law
(727) 967-2942 (T) (727) 222-3403 (F)
jamesaboyko@gmail.com

6545 Ridge Rd., Suite 3
Port Richey, FL 34668

2225 Claremont Lane
Spring Hill, FL 34609

December 21, 2021

Jon A. Jouben, Hernando County Attorney
20 N. Main St.
Brooksville, FL 34601

Re: Improper County liens on property located at 9653 Horizon Dr., Spring Hill, FL 34608

Dear Mr. Collier:

I have the privilege of representing BOK, LLC which is a self directed IRA that I also am the sole owner of. This letter is to request the removal of two County liens recorded on the above property after recording of a mortgage foreclosure lis pendens but before issuance of a certificate of title. I contacted code enforcement and was told to contact your office.

BOK, LLC acquired the property on July 9, 2019 through purchase at a foreclosure auction as shown on the Certificate of Title attached as exhibit "A". The property was subsequently sold to Jerry Lee Carroll by warranty deed dated July 11, 2019 as shown on the attached exhibit "B". The original Lis Pendens was recorded on April 23, 2018 as shown on the attached exhibit "C". The two liens in question were both subsequently recorded on July 2, 2019 as shown on the attached exhibit "D" after the date of recording of the lis pendens and before the issuance of the certificate of title.

The liens were discharged in the foreclosure action and should be cancelled or discharged to be of no effect. This is in accordance with Florida law, specifically s. 48.23(1)(d) which states, in pertinent part:

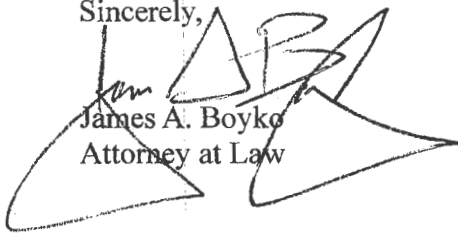
Except for the interest of persons in possession or easements of use, the recording of such notice of lis pendens, provided that during the pendency of the proceeding it has not expired pursuant to subsection (2) or been withdrawn or discharged, constitutes a bar to the enforcement against the property described in the notice of all interests and liens, including, but not limited to, federal tax liens and levies, unrecorded at the time of recording the notice unless the holder of any such unrecorded interest or lien moves to intervene in such proceedings within 30 days after the recording of the notice and the court ultimately grants the motion. If the holder of any such unrecorded interest or lien does not intervene in the proceedings and if such proceedings are prosecuted to a judicial sale of the property described in the notice, the property shall be forever

discharged from all such unrecorded interests and liens.

This is consistent with the case of Ober v. Town of Fort Lauderdale-By-The-Sea, 218 So. 3d 952 (Fla. 4th DCA 2017). Moreover the Florida Supreme Court in the case of City of Palm Bay v. Wells Fargo Bank, NA, 114 So. 3d 924 (Fla. 2013) held that a municipal ordinance may not establish a super priority status for municipal code enforcement liens. I have attached those cases for your review. Accordingly I respectfully request your office direct that the liens be withdrawn, voided or cancelled. BOK, LLC gave a warranty deed to the property to the current owner and have assured him that BOK, LLC will clear the title to the property. I have not found any authority that indicates that the liens are valid and should be paid. If they are valid liens then I will see to it that they are paid. I am open to any well-reasoned authority that runs counter to my analysis. The current owner is understandably anxious to see this matter resolved therefore I respectfully request your response within thirty days of the date of this letter or I see little alternative to commence a quiet title action which unfortunately will involve court costs and attorney's fees. Both the buyer and I are residents of Hernando County and BOK, LLC has its' situs in Hernando County and we all feel our counties' resources would be better utilized in something other than defending a quiet title action where there is no apparent legal or factual basis for asserting the validity of the liens in this circumstance.

Many thanks for your assistance.

Sincerely,



James A. Boyko
Attorney at Law

Jab/jb

encl

Instr #2019041192 BK: 3723 PG: 855, Filed & Recorded: 7/2/2019 10:49 AM SAR Deputy Clk, #Pgs:1
 Doug Chorvat, Jr., Clerk of the Circuit Court Hernando CO FL Rec Fees: \$10.00

PUBLIC NUISANCE ABATEMENT SPECIAL ASSESSMENT LIEN

For Recording Use Only Above Line-

This Public Nuisance Abatement Special Assessment Lien is hereby created, established and levied as of the thirty-first (31st) day following the date set forth below, having been brought before and acted upon by the Board of County Commissioners of Hernando County, a political subdivision of the State of Florida, whose address is 20 N. Main Street, Brooksville, FL 34601, pursuant to the Hernando County Code of Ordinances, Chapter 15, Article V, Sec. 15-161 thru 15-168, and Chapters 125 and 162, Florida Statutes:

WHEREAS, County has determined that a public nuisance, as defined by Hernando County Code Sec.15-163, existed on the subject property legally described below; and,

WHEREAS, County has caused said public nuisance to be abated at County direction at a cost of \$470.00.

WHEREAS, Hernando County Code Sec. 15-166 provides for the creation, establishment and levy of a lien in the amount of such expenditure against the property specially benefited, and the subject property described herein has been determined as having been specially benefited.

NOW THEREFORE, IT IS HEREBY ORDERED, upon this matter coming before the Hernando County Board of County Commissioners and in consideration of the expenditures by County from its governmental funds heretofore made to specially benefit the subject property described herein, there is hereby created, established and levied by operation of law, running from the thirty-first (31st) day from the date set forth below, a lien upon the following described real property situated and lying in Hernando County, Florida, to wit:

9653 HORIZON DRIVE, HERNANDO COUNTY, Key 265037
 SPRING HILL UNIT 7 BLK 377 LOT 10 OR 319 PG 821
 WORK ORDER 82, CASE 337228, LIEN 339825, OVERGROWN LOT

Owner's name: AMPARO PASTOR

Mailing address: 8269 SW 157TH PL MIAMI FL 33193-5245

Said lien may be foreclosed by County pursuant to Hernando County Code Sec. 15-166 and in accordance with the procedure set forth in general law, or may be enforced in any other manner allowed by law.

Said lien shall bear interest at the rate of ten percent (10%) per annum from the date hereof until paid in full.

IN WITNESS WHEREOF, Hernando County has set its hand and seal this 14th day of May, 2019.

HERNANDO COUNTY BOARD OF COUNTY
COMMISSIONERS

Jeff Holcomb
 Jeff Holcomb, Chairman

STATE OF FLORIDA
COUNTY OF HERNANDO

The foregoing instrument was acknowledged before me on this 14th day of May, 2019, by Jeff Holcomb, Chairman of the Hernando County Board of County Commissioners, who is personally known to me or who has produced _____ as identification.

ATTEST:

Douglas A. Chorvat, Jr.
 Douglas A. Chorvat, Jr., Clerk of the Circuit Court

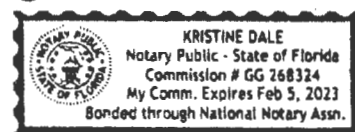
Approved for Form and Legal Sufficiency:

By: [Signature]
 County Attorney's Office

Kristine Dale
 (Signature of person taking acknowledgment)

KRISTINE DALE
 (Name typed, printed or stamped)

NOTARY
 (Title or Rank)



Prepared By & Return To: Hernando County Code Enforcement, 789 Providence Blvd., Brooksville, FL 34601

EXHIBIT D

Instr #2019041193 BK: 3723 PG: 856, Filed & Recorded: 7/2/2019 10:49 AM SAR Deputy Clk, #Pgs:1
 Doug Chorvat, Jr., Clerk of the Circuit Court Hernando CO FL Rec Fees: \$10.00

PUBLIC NUISANCE ABATEMENT SPECIAL ASSESSMENT LIEN

-For Recording Use Only Above Line-

This Public Nuisance Abatement Special Assessment Lien is hereby created, established and levied as of the thirty-first (31st) day following the date set forth below, having been brought before and acted upon by the Board of County Commissioners of Hernando County, a political subdivision of the State of Florida, whose address is 20 N. Main Street, Brooksville, FL 34601, pursuant to the Hernando County Code of Ordinances, Chapter 15, Article V, Sec. 15-161 thru 15-168, and Chapters 125 and 162, Florida Statutes:

WHEREAS, County has determined that a public nuisance, as defined by Hernando County Code Sec.15-163, existed on the subject property legally described below; and,

WHEREAS, County has caused said public nuisance to be abated at County direction at a cost of \$3,680.86.

WHEREAS, Hernando County Code Sec. 15-166 provides for the creation, establishment and levy of a lien in the amount of such expenditure against the property specially benefited, and the subject property described herein has been determined as having been specially benefited.

NOW THEREFORE, IT IS HEREBY ORDERED, upon this matter coming before the Hernando County Board of County Commissioners and in consideration of the expenditures by County from its governmental funds heretofore made to specially benefit the subject property described herein, there is hereby created, established and levied by operation of law, running from the thirty-first (31st) day from the date set forth below, a lien upon the following described real property situated and lying in Hernando County, Florida, to wit:

9653 HORIZON DRIVE, HERNANDO COUNTY, Key 265037
 SPRING HILL UNIT 7 BLK 377 LOT 10 OR 319 PG 821
 WORK ORDER 79, CASE 337330, LIEN 339832, TRASH AND DEBRIS

Owner's name: AMPARO PASTOR

Mailing address: 8269 SW 157TH PL MIAMI FL 33193-5245

Said lien may be foreclosed by County pursuant to Hernando County Code Sec. 15-166 and in accordance with the procedure set forth in general law, or may be enforced in any other manner allowed by law.

Said lien shall bear interest at the rate of ten percent (10%) per annum from the date hereof until paid in full.

IN WITNESS WHEREOF, Hernando County has set its hand and seal this 14th day of May, 2019.

**HERNANDO COUNTY BOARD OF COUNTY
COMMISSIONERS**


 Jeff Holcomb, Chairman

**STATE OF FLORIDA
COUNTY OF HERNANDO**

The foregoing instrument was acknowledged before me on this 14th day of May, 2019, by Jeff Holcomb, Chairman of the Hernando County Board of County Commissioners, who is personally known to me or who has produced _____ as identification.

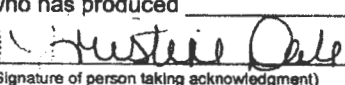
ATTEST:


 Douglas A. Chorvat, Jr., Clerk of the Circuit Court

Approved for Form and Legal Sufficiency:

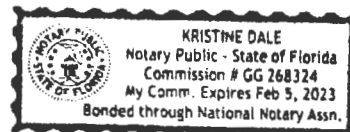
By: 

County Attorney's Office


 (Signature of person taking acknowledgment)

(Name typed, printed or stamped)

NOTARY
 (Title or Rank)



Prepared By & Return To: Hernando County Code Enforcement, 789 Providence Blvd., Brooksville, FL 34601