



AGENDA ITEM REQUEST FORM

Development Services

Kimberly Williams

Department Submitting Request

Development Services

REG COMMISSION
Meeting Dates 7:00PM

DEADLINE TO
Town Clerk's Office

ROUNDTABLE
Meeting Dates 7:00PM

DEADLINE TO
Town Clerk's Office

- April 27, 2011
- May 24, 2011
- June 28, 2011
- July 26, 2011

- April 15 (5:00 pm)
- ** (5:00 pm)
- ** (5:00 pm)
- ** (5:00 pm)

- April 12, 2011
- May 10, 2011
- June 14, 2011
- July 12, 2011

- April 1 (5:00 pm)
- ** (5:00 pm)
- ** (5:00 pm)
- ** (5:00 pm)

*Subject to Change

- Presentation
- Reports
- Consent
- Ordinance
- Resolution
- Quasi Judicial
- Old Business
- New Business

SUBJECT TITLE: Commission Approval of Application for Relief of Code Enforcement Lien at 1955 Blue Water Terrace South.

EXPLANATION: The owner of this residential property (JP Morgan Chase Bank) seeks relief from a code enforcement lien. The Town issued a Notice of Violation on June 05, 2009 for the failure to connect to the sewer system. The Special Magistrate heard the case on August 5, 2009 and ordered the then property owner to comply within 90 days or a fine of \$150.00 per day would commence. The Bank secured title to the property on September 28, 2010 and corrected the violation by January 20, 2011. The owner's application is attached hereto as "Exhibit 1". The requested relief must be approved by the Town Commission. The table below provides a summary of the case:

Case #	Violation	Lien Amount	Offered Settlement	Approx. % of lien	# of Days in Violation
09-KP-00682	Failure to connect to sewer system	\$66,150.00	\$9,922.50	15%	440

Total cost to the Town to obtain compliance is approximately \$365.00.

There are additional outstanding fixed costs owed to the Town (and not subject to reduction) totaling \$253.00 (\$150.00 administrative fee; \$103.00 recording fees for lien and release of lien).

Under the Town's procedures for relief from code enforcement liens, the Commission shall consider all relevant factors to determine what relief, if any, is appropriate, including the following criteria:

A. The nature and gravity of the violation;

The gravity of the violation is of moderate to low gravity.

B. Any actions taken by the Respondent to correct the violation;

When the Bank retained title by the courts on September 28, 2010, the house was vacant so the issue was not critical at that time. They worked with staff to correct the violation.

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

The bank corrected the violation 114 days after acquiring title to the property.

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

The Bank spent five thousand eight hundred and twenty five dollars (\$5,825.00) correcting the violation.

- 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 Town;

No.

RECOMMENDATION: Staff recommends approval of the requested relief from code enforcement lien in the amount suggested by the owner (\$9,922.50) if paid within 30 days of Commission approval. The Bank efficiently and within a reasonable amount of time worked with staff to abate the violations. Additionally, the violations did not pose a health or safety issue.

EXHIBITS: Exhibit 1 – Respondent’s Application and Staff’s history of involvement. (Case # 09-KP-00682)

Town Attorney review required

Yes No

Town Manager Initials

CA

INTEROFFICE MEMORANDUM

TO: JEFF BOWMAN, DEVELOPMENT SERVICES DIRECTOR
FROM: KIMBERLY WILLIAMS, CODE COMPLIANCE OFFICER
SUBJECT: 1955 BLUE WATER TERRACE SOUTH
DATE: 4/12/2011

The following case has been complied. However, fines and administration fees were imposed and liens were recorded with Broward County.

- Case # 09-KP-00682 Failure to connect to the sewer system
Opened 06/05/2009 Complied 01/20/2011
Fine and Administration fee of \$66,150.00 is owed
Applicant is requesting the amount be reduced to \$3,307.50

A mitigation request for this case has been submitted by Monica Hands of Caldwell Banker to act on behalf of JP Morgan Chase Bank who are the current owners of the property. The mitigation request packet has been reviewed and contains all the required information necessary for mitigation consideration.

The following forms are included:

- Application for Relief
- Letter authorizing realtor to represent bank for mitigation
- Letter stating the factors relevant to the application for relief
- BCPA
- Lis Pendens
- Final Summary Judgment
- Certificate of Title
- Certification of Lien Order
- Final Order

INTEROFFICE MEMORANDUM

TO: JEFF BOWMAN, DEVELOPMENT SERVICES DIRECTOR
FROM: KIMBERLY WILLIAMS, CODE COMPLIANCE OFFICER
SUBJECT: CONTACT AND CASE 09-KP-00682 HISTORY
DATE: 4/19/2011

<u>Date of contact</u>	<u>Type of Contact</u>
06/05/2009	Notice of Violation posted at the property with a correction date of 07/06/2009 and sent certified mail to the current owner Sean and Melinda Potts. Letter signed for by Melinda Potts
07/07/2009	Letter received from the owners advising the home was being sold and requested more time to comply. Provided contact number to call
07/16/2009	Attempt to call owner, advised we had the wrong number
07/23/2009	Attempt to call owner, advised we had the wrong number
07/24/2009	Notice of hearing sent certified mail to the owners
08/03/2009	Letter from owners requesting a continuance after receiving and signing for the Notice of hearing on 07/31/2009, scheduling them for a code hearing on 08/05/2009
08/05/2009	Reinspection prior to code hearing shows the violation is not in compliance Permit history checked and no permit has been pulled
08/05/2009	Case heard at the code hearing. Final order gave the owners 90 days to comply the violation or a \$150.00 per day fine would begin to accrue plus an administration fee of \$150.00 was imposed
08/07/2009	Final order sent certified mail to owners
11/16/2009	Left card posted at residence requesting owners to contact the officer regarding the daily fine and give an update of progress toward compliance
02/25/2010	Left message for Ann Welch of Albertelli Law, the foreclosing attorney's office, advising of the certification of lien hearing scheduled for 03/17/2010

03/01/2010 Posted a courtesy notice requesting the owners contact the officer regarding the fine and provide a compliance update. Spoke to Mr. Potts and advised of certification of lien hearing.

03/03/2010 Certification of Lien hearing notice for 03/17/2010 sent certified mail to the owners and Albertelli Law.

03/17/2010 Certification of Lien hearing. Case heard and certification of lien approved.

03/19/2010 Certification of Lien Order sent certified mail to the owners

04/02/2010 Spoke to tentative new owner, Nick Macusco; Bank gave him permission to complete the sewer hookup due to pending sale

04/21/2010 Tentative new owner, Nick Macusco, pulled permit 10-00685 for sewer the hook up in hopes of complying and stopping the fine immediately after the closing

05/19/2010 Spoke to realtor, Randy Olsavsky; Bank has approved the short sale and should close by end of May. Plumber will complete job right after closing

06/01/2010 Spoke to realtor, Randy Olsavsky, IRS placed a lien on the home and closing cancelled until IRS releases their lien

06/30/2010 Spoke to realtor, Randy Olsavsky, IRS sending release of lien. Closing rescheduled for 07/18/2010

07/21/2010 Spoke to realtor, Randy Olsavsky; they are still waiting for the IRS to send the release of lien letter. Closing has been cancelled

08/02/2010 Spoke to realtor, Randy Olsavsky, still waiting for letter from IRS

09/21/2010 Spoke to realtor, Randy Olsavsky; he resubmitted a request to the IRS for release of lien letter

09/28/2010 Bank received certificate of title

10/12/2010 Spoke to realtor, Randy Olsavsky; bank has foreclosed on property and cancelled the short sale. Realtor advised the lien will be recorded

10/13/2010 Lien recorded in Broward County, book 47444, Pages 1446-1449

10/18/2010 Met with Monica Hands, realtor for bank, regarding the lien, amount currently owed and advised of the mitigation process once violation is complied

11/02/2010 Request from Sun Belt Title Company for information regarding the case, fine, compliance and mitigation procedures. Emailed information to them

12/14/2010 New permit applied for 10-02404 (took bank 77 days to obtain permit)

01/20/2011 Permit 10-02404 completed and finalized. Case complied and fine stopped. Fine ran from 11/06/2009 to 01/19/2011 = 440 days at \$150.00 per day plus \$150.00 admin fee = \$66,150.00 Email sent to bank advising of compliance, fine amount owed and mitigation procedures. (took bank 114 days to comply violation)

04/11/2011 Mitigation application delivered by realtor, Monica Hands

INTEROFFICE MEMORANDUM

TO: JEFF BOWMAN, DEVELOPMENT SERVICES DIRECTOR
FROM: KIMBERLY WILLIAMS, CODE COMPLIANCE OFFICER
SUBJECT: ESTIMATED TIME SPENT ONCASE 09-KP-00682
DATE: 4/12/2011

Original investigation, issuance / posting of notice of violation, preparing files, labels, computer entry,
notice of violation letter preparation, mailing (certified and regular) 50 min plus \$ 6.42

Research for bank, owner and property information 25 min

Code Hearing - pre and post inspections, case preparation, notice letter and mailing (certified and regular)
30 min plus \$ 6.42

Code Final Order - preparation, hearing, review, letter and mailings (certified and regular) 60 min plus \$ 6.42

Certification of Lien Hearing - case preparation, notice letter and mailing (certified and regular)
30 min plus \$ 6.42

Certification of Lien Final Order - preparation, hearing, review, letter and mailing (certified and regular)
60 min plus \$6.42

Certification and recording of Liens with Broward County 75 min plus \$ 35.50

Re-inspections for compliance for case duration 60 min

Updating cases in computer with actions, re-inspections, communications, extensions, final orders, hearing
and fine info etc. 60 min

Phone calls, faxes, correspondence and e-mails (review, sending, receiving, messages) 90 min

Time compiling: estimation of staff time, preparing, assisting and reviewing mitigation applications 90 min

Total estimated time Code Enforcement Staff has spent:
630 minutes or 10.5 hours plus fee's and postage \$ 67.60

**Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Tel: (954) 776-0576
Fax: (954) 776-1857**

APPLICATION REQUEST FOR RELIEF OF RECORDED LIEN/LIENS WITH BROWARD COUNTY

The Town Commission is authorized to provide relief from liens established by the Code Compliance Special Magistrate and that have been recorded with Broward County.

* No application will be accepted or processed unless all violations on the property have been placed in compliance by Code Enforcement

CASE # 09-KP-00682

TOWN OF LAUDERDALE-BY-THE-SEA vs. Malinda Barrett & Sean Potts
(Name of Respondent(s) as listed)

NAME OF APPLICANT: (Print): Monica Hands
(Person to attend Hearing)

ADDRESS OF APPLICANT: 2400 E. Commercial Blvd., Ste. 101
(Full mailing address) Fort Lauderdale, FL 33308

PHONE NUMBER: Cell: 954-804-2402 / Office: 954-771-2600

ADDRESS OF PROPERTY: 1955 S.E. 19th Ave., Pompano Beach, FL 33062
(Where violation(s) existed)

NATURE OF VIOLATION: Property was not properly hooked up to sewer system. Violation was issued on 6/5/09; Case No. 09-KP-00682.

TOTAL AMOUNT OF FINE: \$66,150.00

AMOUNT REQUESTING FINE BE REDUCED TO: \$9,922.⁵⁰

THIS PROPERTY CURRENTLY IS OR IS NOT (check one) INVOLVED IN LITIGATION

The following information (If applicable) must be provided with the application:

1. A copy of the Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
2. A copy of the Foreclosure Order, with the date, book and page shown;
3. A copy of the Certification of Lien Order, with the recording date, book and page shown;
4. A copy of Final Order;

5. A copy of the new Certificate of Title, with the recording date, book and page shown;
6. A copy of the Town's Order of Imposition of Fine;
7. A copy of the Claim of Lien with the recording date, book and page shown.

WHY RELIEF SHOULD BE GRANTED (This section must be completed): This is a foreclosed property. The property is now owned by The Bank of New York Mellon formerly know as The Bank of New York as Successor Trustee to JPMorgan Chase Bank. The Seller has never lived in the property and the Code Violations that occurred during the time were caused by the foreclosed defendant. The Seller is in need of a reduced lien payoff so the fines can be paid and obtain a release for the lien. Attached are copies of the foreclosure documentation: Recorded Lis Pendens, Final Summary Judgement, and Certificate of Title. Your prompt assistance to this matter will be greatly appreciated.

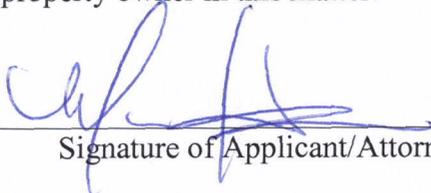
(Attach additional pages if needed along with any supporting documentation)

NAME OF ATTORNEY/OWNER REPRESENTATIVE: Monica Hands
IF APPLICABLE: Information to be completed by attending Attorney ONLY

ADDRESS OF ATTORNEY: 2400 E. Commerical Blvd. #22
Fort Lauderdale, FL 33308

PHONE NUMBER: 954 804-2402

I CERTIFY THAT I am the current owner of the subject property or an Attorney for said owner or, that I am the legal representative for the property or otherwise authorized to act on behalf of the property owner in this matter.



Signature of Applicant/Attorney

4/11/11

Date

(NOTE: Proof of such lawful authority or written authorization from the property owner must be provided by the applicant prior to this matter proceeding to hearing before the Special Magistrate.)



AUTHORIZATION AND REPRESENTATION AGREEMENT

Re: Case No. 09-KP-00682

Property Address: 1955 SE 19th Avenue, Pompano Beach, FL 33062

On this 7th day of April, 2011, EMC Mortgage LLC, as owner of the referenced property, hereby authorizes Monica Hands of Coldwell Banker Residential to act on behalf of said company with respect to the referenced code enforcement case number.

Representation includes, but is not limited to, obtaining information on the referenced code enforcement case, mitigating the violations and negotiating the fines that resulted from said violation.

By: Frank Brewer
Frank Brewer
As its: VP CEO Marketing

LAUDERDALE-BY-THE-SEA
RECEIVED
APR 13 2011
DEVELOPMENT
SERVICES



RESIDENTIAL REAL ESTATE

2400 EAST COMMERCIAL BLVD., SUITE 101
FORT LAUDERDALE, FL 33308

BUS. (954) 771-2600
FAX (954) 772-3012

April 13, 2011

Dear Sir/Madam,

We are requesting that the current lien of \$66,150 associated with the property located at: 1955 Blue Water Terrace, Lauderdale by the Sea, FL 33062 be reduced to an amount less than or equal to \$9,922.50, 15.0% of the total amount.

This property was neglected and not maintained by the previous owners. The bank completed a foreclosure on this property and obtained a Certificate of Title on September 28, 2010. After the bank and its representatives took possession of the property all of the code violations have been complied with and the property has been well maintained. In addition, the bank and its representatives have worked diligently to bring the property into a condition that provides more curb appeal and demonstrates a pride in ownership.

We would value the opportunity to finalize the mitigation of the above lien at the April 27, 2011 hearing. The property is now under contract and the buyers who have been patiently waiting for over two years to finally purchase the property and occupy it. If there is anything else that you may need from us in order to ensure this takes place, please let us know.

Sincerely,

Monica Hands
Coldwell Banker Residential Real Estate
for
Chase/Bank of New York Mellon



Site Address	1955 BLUE WATER TERRACE SOUTH , LAUDERDALE BY THE SEA	ID #	4943 07 04 0520
Property Owner	BANK OF NEW YORK MELLON TRSTEE	Millage	0211
Mailing Address	2780 LAKE VISTA DR LEWISVILLE TX 75067-3884	Use	01

Legal Description	BEL-AIR ISLE 40-43 B LOT 51 LESS PT DESC IN OR 2378/558 BLK 1
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The just values displayed below were set in compliance with Sec. 193.011, Fla. Stat., and include a reduction for costs of sale and other adjustments required by Sec. 193.011(8).

Property Assessment Values					
Click here to see 2010 Exemptions and Taxable Values reflected on Nov. 1, 2010 tax bill.					
Year	Land	Building	Just Value	Assessed / SOH Value	Tax
2011	\$581,190	\$397,510	\$978,700	\$978,700	
2010	\$581,190	\$397,510	\$978,700	\$978,700	\$19,147.48
2009	\$708,750	\$560,570	\$1,269,320	\$1,269,320	\$24,328.57

IMPORTANT: The 2011 values currently shown are very preliminary numbers. Those numbers will change frequently online as we make various adjustments until they are finalized on June 1. Please check back here AFTER June 1, 2011, to see the actual proposed 2011 assessments and portability values.

2011 Exemptions and Taxable Values by Taxing Authority				
	County	School Board	Municipal	Independent
Just Value	\$978,700	\$978,700	\$978,700	\$978,700
Portability	0	0	0	0
Assessed/SOH	\$978,700	\$978,700	\$978,700	\$978,700
Homestead	0	0	0	0
Add. Homestead	0	0	0	0
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exempt Type	0	0	0	0
Taxable	\$978,700	\$978,700	\$978,700	\$978,700

Sales History				
Date	Type	Price	Book	Page
9/28/2010	CET-D	\$750,100	47450	1591
5/22/2003	WD	\$920,000	35276	746
3/27/2001	WD	\$635,000	31417	1681
8/1/1965	WD	\$12,000		

Land Calculations		
Price	Factor	Type
\$55.00	10,567	SF
Adj. Bldg. S.F. (See Sketch)		2840
Beds/Baths		4/3

Special Assessments					
Fire	Garbage	Light	Drainage	Improvement	Safe
02			LB		
R			LB		
1			1		

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IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA CIVIL ACTION

THE BANK OF NEW YORK MELLON FORMERLY KNOWN AS THE BANK OF NEW YORK AS SUCCESSOR TRUSTEE TO JPMORGAN CHASE BANK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF STRUCTURED ASSET MORTGAGE INVESTMENTS INC. MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2003-AR2,

09-06131

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Plaintiff,

vs. CASE NO. DIVISION

SPACE FOR RECORDING ONLY F.S.#9124

MALINDA R. BARRETT A/K/A MALINDA R. POTTS A/K/A MALINDA POTTS A/K/A MALINDA BARRETT POTTS ; THE UNKNOWN SPOUSE OF MALINDA R. BARRETT A/K/A MALINDA R. POTTS A/K/A MALINDA POTTS A/K/A MALINDA BARRETT POTTS ; SEAN POTTS; THE UNKNOWN SPOUSE OF SEAN POTTS; BANK OF AMERICA, NA; UNITED STATES OF AMERICA; WACHOVIA BANK, NA; ANY AND ALL UNKNOWN PARTIES CLAIMING BY, THROUGH, UNDER, AND AGAINST THE HEREIN NAMED INDIVIDUAL DEFENDANT(S) WHO ARE NOT KNOWN TO BE DEAD OR ALIVE, WHETHER SAID UNKNOWN PARTIES MAY CLAIM AN INTEREST AS SPOUSES, HEIRS, DEVISEES, GRANTEES, OR OTHER CLAIMANTS; TENANT #1, TENANT #2, TENANT #3, and TENANT #4 the names being fictitious to account for parties in possession Defendant(s).

NOTICE OF LIS PENDENS

To the above-named Defendant(s) and all others whom it may concern:

You are notified of the institution of this action by the above-named Plaintiff, against you seeking to foreclose a mortgage on the following property in Broward County, Florida:

A PORTION OF LOT 51, IN BLOCK 1, OF BEL-AIRE ISLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 40, AT PAGE 43, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE FULLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 51; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 51, A DISTANCE OF 85.57 FEET; THENCE EASTERLY MAKING AN INCLUDED ANGLE OF 84°46'55", A DISTANCE OF 133.49 FEET TO THE SOUTHEAST CORNER OF SAID LOT 51; THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 51, ALONG A CURVE TO THE RIGHT WHOSE RADIUS IS 390.59 FEET WITH A CENTRAL ANGLE OF 06°09'40" AN ARC DISTANCE OF 42 FEET TO THE POINT OF TANGENT, THENCE CONTINUING NORTHERLY ALONG THE SAID EAST LINE, A DISTANCE OF 36 FEET TO THE NORTHEAST CORNER THEREOF;

2

THENCE WEST ALONG THE NORTH LINE OF SAID LOT 51, A DISTANCE OF 128.10 FEET
TO THE POINT OF BEGINNING.
A/K/A 1955 SE19TH AVENUE, POMPANO BEACH, FL 33062

Dated this 20 day of January, 2009.

Albertelli Law
P.O. Box 23028
Tampa, Florida 33623
(813) 221-4743

By: 
RYAN J. WEEKS
FLORIDA BAR NO. 57897

-09-14636

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[Handwritten scribble]

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA
CIVIL ACTION

THE BANK OF NEW YORK MELLON FORMERLY KNOWN AS
THE BANK OF NEW YORK AS SUCCESSOR TRUSTEE TO
JPMORGAN CHASE BANK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF STRUCTURED ASSET
MORTGAGE INVESTMENTS INC. MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES [REDACTED]

Plaintiff,

CASE NO.: CACE09006131
DIVISION: 25

vs.

SPACE FOR RECORDING
ONLY F.S. §695.26

2009 JUL 22 PM 4: 18
CIRCUIT COURT
FLORIDA
BROWARD COUNTY

MALINDA R. BARRETT A/K/A MALINDA R. POTTS
A/K/A MALINDA POTTS A/K/A MALINDA BARRETT
POTTS ; THE UNKNOWN SPOUSE OF MALINDA R.
BARRETT A/K/A MALINDA R. POTTS A/K/A
MALINDA POTTS A/K/A MALINDA BARRETT POTTS
; SEAN POTTS; THE UNKNOWN SPOUSE OF SEAN
POTTS; BANK OF AMERICA, NA; UNITED STATES
OF AMERICA; WACHOVIA BANK, NA; ANY AND
ALL UNKNOWN PARTIES CLAIMING BY,
THROUGH, UNDER, AND AGAINST THE HEREIN
NAMED INDIVIDUAL DEFENDANT(S) WHO ARE
NOT KNOWN TO BE DEAD OR ALIVE, WHETHER
SAID UNKNOWN PARTIES MAY CLAIM AN
INTEREST AS SPOUSES, HEIRS, DEVISEES,
GRANTEES, OR OTHER CLAIMANTS; TENANT #1,
TENANT #2, TENANT #3, and TENANT #4 the names
being fictitious to account for parties in possession

Defendant(s).

FINAL SUMMARY JUDGMENT OF MORTGAGE FORECLOSURE

THIS CAUSE having come to be heard on July 22, 2009 on the Motion for Summary Judgment of Mortgage Foreclosure Including a Hearing to Tax Attorneys' Fees and Costs filed on behalf of The Bank Of New York Mellon Formerly Known As The Bank Of New York As Successor Trustee To Jpmorgan Chase Bank As Trustee For The Certificateholders Of Structured Asset Mortgage Investments Inc. Mortgage Pass-through Certificates, Series: [REDACTED] hereinafter referred to as Plaintiff, and the Court having reviewed the pleadings and affidavits filed by Plaintiff, having heard argument of counsel, and being otherwise fully advised in the premises:

ORDERS AND ADJUDGES as follows:

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1. Service of process has been duly and regularly obtained over Malinda R. Barrett a/k/a Malinda R. Potts a/k/a Malinda Potts a/k/a Malinda Barrett Potts ; Sean Potts; Bank of America, NA; United States of America; Wachovia Bank, NA; hereinafter referred to as "Defendants."

2. The equities of this action are in favor of Plaintiff, and Plaintiff is entitled to the foreclosure of its mortgage. Plaintiff is due:

UNPAID PRINCIPAL BALANCE	\$735,321.93
INTEREST THROUGH July 22, 2009	33,504.77
PRE-ACCELERATED LATE CHARGES THROUGH January 14, 2009	1,662.13
INSURANCE	866.65
BPO/APPRaisal	9.00
MISC CORP ADVANCE	112.00
TITLE SEARCH EXPENSES	175.00
TITLE EXAMINATION FEE	150.00
FILING FEE	401.00
INVESTIGATION/SERVICE OF PROCESS	500.00
ATTORNEY'S FEE	1,300.00
TOTAL	\$774,002.48

3. The Court finds, based upon §702.065(2) Florida Statutes, the affidavits filed herein, inquiry of counsel for Plaintiff, and upon consideration of the legal services rendered, the complexity of the foreclosure action, the amount of time and labor reasonably expended by lawyers in the community in prosecuting routine mortgage foreclosure actions, Albertelli Law's flat fee agreement with its client and Florida law, that the flat fee sought by Albertelli Law is reasonable and awards a flat fee of One Thousand Three Hundred And 00/100 Dollars (\$1,300.00).

4. The Court finds that the Plaintiff is the owner of the Note(s) and Mortgage(s) being foreclosed in this matter.

5. Plaintiff holds a lien for the total sums set forth in Paragraph 2 superior to any claims, interests or estates of Defendant(s) over Malinda R. Barrett a/k/a Malinda R. Potts a/k/a Malinda Potts a/k/a Malinda Barrett Potts ; Sean Potts; Bank of America, NA; United States of America; Wachovia Bank, NA; and any person or entities claiming by, through, under or against these defendant(s), excepting however, any rights bestowed to any of the herein Defendants pursuant to Florida Statutes §718 and §720, and/or any special assessments that are superior pursuant to Florida Statutes §159 and/or §170.9, on the following-described property located and situated in Broward County, Florida:

A PORTION OF LOT 51, IN BLOCK 1, OF BEL-AIRE ISLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 40, AT PAGE 43, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE FULLY DESCRIBED AS

FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 51; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 51, A DISTANCE OF 85.57 FEET; THENCE EASTERLY MAKING AN INCLUDED ANGLE OF 84°46'55", A DISTANCE OF 133.49 FEET TO THE SOUTHEAST CORNER OF SAID LOT 51; THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 51, ALONG A CURVE TO THE RIGHT WHOSE RADIUS IS 390.59 FEET WITH A CENTRAL ANGLE OF 06°09'40" AN ARC DISTANCE OF 42 FEET TO THE POINT OF TANGENT, THENCE CONTINUING NORTHERLY ALONG THE SAID EAST LINE, A DISTANCE OF 36 FEET TO THE NORTHEAST CORNER THEREOF; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 51, A DISTANCE OF 128.10 FEET TO THE POINT OF BEGINNING. A/K/A 1955 SE19TH AVENUE, POMPANO BEACH, FL 33062

6. If the total sum set forth in Paragraph 2, with interest at the rate prescribed by law (which is 8 percent per annum) and all costs of this action accruing subsequent to this Judgment, is not paid immediately, the Clerk of this Court shall sell the property described in Paragraph 5 at a public sale on November 19, 2009 at 11:00AM, to the highest bidder for cash, except as hereinafter set forth, in/on Room 385 on the 3rd Floor of the Broward County Courthouse, 201 S.E. 6th Street, Fort Lauderdale, FL 33301, in Broward County, Florida in accordance with Florida Statute §45.031(1999), provided, however, that such sale shall not be held in the absence of Plaintiff's attorney or its representative.

No Sale
Occurs than
120 days
From date
of Judgment
8/22/09

7. Plaintiff shall advance all subsequent costs of this action in addition to any advances made to preserve its collateral and shall be reimbursed, without further Order of the Court, by the Clerk if Plaintiff is not the purchaser of the property. If Plaintiff is the purchaser, the bid may be assigned without further Order of this Court and the Clerk shall credit the Plaintiff's bid with the total sum set forth in Paragraph 2 above, together with interest as prescribed by law and costs accruing subsequent to this judgment as is necessary to pay the bid in full.

8. On filing the Certificate of Title with respect to the property described in Paragraph 5, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of Plaintiff's costs; second, documentary stamps affixed to the Certificate if Plaintiff is the successful bidder; third, Plaintiff's attorney's fees; fourth, the total sum due to Plaintiff, as set forth in Paragraph 2, less the items paid, plus interest at the rate prescribed by law from this date to the date of the sale to Plaintiff. **THE CLERK SHALL RETAIN ANY AMOUNT REMAINING PENDING THE FURTHER ORDER OF THIS COURT. ANY AMOUNTS SO RETAINED ARE TO BE DISTRIBUTED TO EACH DEFENDANT, AS DETERMINED BY ORDER OF THIS COURT. THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE**

ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT. IF YOU ARE A SUBORDINATE LIEN HOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS. IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE BROWARD COUNTY CLERK OF COURT, BROWARD COUNTY COURTHOUSE, ATTN: FORECLOSURE, 201 S E 6TH STREET, ROOM 230, FORT LAUDERDALE, FL 33301; TELEPHONE 954-831-5745, WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT. IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT LEGAL AID SERVICE OF BROWARD COUNTY INC. AT (954) 765-8950, TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO LEGAL AID SERVICE OF BROWARD COUNTY INC. FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

9. The successful bidder and purchaser at the foreclosure sale of the real property being foreclosed shall pay in addition to the amount bid, any documentary stamps and Clerk's fee relating to the issuance of the Certificate of Title to be issued by the Clerk to the successful bidder and purchaser. At the time of the sale the successful high bidder shall post with the Clerk a deposit equal to five percent (5%) of

the final bid. The deposit shall be applied to the sale price at the time of payment. If final payment is not made within the prescribed period, the Clerk shall re-advertise the sale as provided in this section, and pay all costs of the sale from the deposit. Any remaining funds shall be applied toward the Judgment. All funds disbursed to Plaintiff representing proceeds of the sale shall be made payable to Albertelli Law.

10. Defendants' Right of Redemption shall be terminated upon issuance of the Certificate of Sale as prescribed by Florida Statute §45.0315 Florida Statutes, except for that of the United States of America, who shall have 120 days to redeem. On filing the Certificate of Title with respect to the property described in Paragraph 5 above, the Defendants named herein, and all persons claiming by, through, under or against them since the filing of Notice of Lis Pendens in this action, are foreclosed of all estate, interest or claim in the property described in Paragraph 5, and the purchaser or purchasers at the sale shall be let into possession of the property. The Clerk of the Circuit Court is ordered to issue a Writ of Possession upon demand by the purchaser or purchasers.

11. Jurisdiction over this action is retained to enter such further Orders to give Plaintiff adequate and complete relief as may be necessary and proper, including the entry of a deficiency decree if borrower(s) has not been discharged in bankruptcy or constructively served, together with additional attorney's fees, if appropriate.

DONE AND ORDERED in Chambers, in Broward County, Florida, this 22 day of May, 2009.



Circuit Judge

Copies furnished to:
Albertelli Law
P.O. Box 23028
Tampa, FL 33623
- 09-14636

Malinda R. Barrett a/k/a Malinda R. Potts a/k/a Malinda Potts a/k/a Malinda Barrett Potts
1955 Southeast 19th Avenue
Laud by the Sea, Florida 33062

Sean Potts
1955 Southeast 19th Avenue
Laud by the Sea, Florida 33062

Bank of America, NA
c/o Amy Post, Esq.
Law Offices of Marshall C. Watson, P.A.
1800 NW 49th Street, Ste 120
Ft. Lauderdale, Florida 33309

United States of America
c/o Grisel Alonso, Asst US Atty
Southern District of Florida
99 NE 4 Street, Ste 300
Miami, Florida 33132

Wachovia Bank, NA
c/o Scott E. Simowitz, Esq.
Moskowitz, Mandell, Salim & Simowitz, P.A.
800 Corporate Drive, Ste 500
Ft. Lauderdale, Florida 33334

9/14

In the Circuit Court of the Seventeenth Judicial Circuit
In and for Broward County, Florida

THE BANK OF NEW YORK
Plaintiff

CACE-09-008131
Division: 25

VS.

BARRETT, MALINDA R ; POTTS, SEAN ; BANK OF AMERICA NA ;
UNITED STATES OF AMER ; WACHOVIA BANK NA
Defendant

Certificate of Title

The undersigned, Howard C. Forman, Clerk of the Court, certifies that he executed and filed a certificate of sale in this action on September 28, 2010, for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections.

The following property in Broward County, Florida:

A PORTION OF LOT 51, IN BLOCK 1, OF BEL-AIRE ISLE, ACCORDING TO THE PLAN THEREOF, RECORDED IN PLAT BOOK 46, AT PAGE 45, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE FULLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 51; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 51, A DISTANCE OF 85.57 FEET; THENCE EASTERLY MAKING AN INCLUDED ANGLE OF 84°46'58", A DISTANCE OF 134.49 FEET TO THE SOUTHEAST CORNER OF SAID LOT 51; THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 51, ALONG A CURVE TO THE RIGHT WHOSE RADIUS IS 190.15 FEET WITH A CENTRAL ANGLE OF 16°09'40" AN ARC DISTANCE OF 43 FEET TO THE POINT OF TANGENT, THENCE CONTINUING NORTHERLY ALONG THE SAID EAST LINE, A DISTANCE OF 34 FEET TO THE NORTHEAST CORNER THEREOF; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 51, A DISTANCE OF 128.10 FEET TO THE POINT OF BEGINNING.
A/K/A 1955 SE19TH AVENUE, POMPANO BEACH, FL 33062

Was sold to: THE BANK OF NEW YORK MELLON FORMERLY KNOWN AS THE BANK OF NEW YORK AS SUCCESSOR TRUSTEE TO JPMORGAN CHASE BANK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF STRUCTURED ASSET MORTGAGE INVESTMENTS INC. MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2003-AR2

2760 Lake Vista Drive Lewisville, TX, 75087-3884

Witness my hand and the seal of this court on October 12, 2010.



Howard C. Forman

Howard C. Forman, Clerk of Circuit Courts
Broward County, Florida

2

Total consideration: \$750,100.00
Doc Stamps: \$5,250.70

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OFFICIAL COPY

CIRCUIT CIVIL 2010 OCT 12 AM 8:33 FILED FOR RECORD CLERK OF CIRCUIT COURT BROWARD COUNTY, FLA.

6

**TOWN OF LAUDERDALE BY THE SEA
MUNICIPAL CORPORATION OF FLORIDA
4501 N. OCEAN DRIVE
Lauderdale-By-The-Sea, Florida 33308**

**BEFORE THE SPECIAL MAGISTRATE
ORDER IMPOSING FINE/CERTIFICATE OF LIEN**

TOWN OF LAUDERDALE-BY-THE-SEA,

Petitioner

v.

Case No. 09-KP-00682

**MALINDA BARRETT & SEAN POTTS
1955 S. E. 19th Avenue
Lauderdale-By-The-Sea, FL 33062**

Respondent(s): THIS IS NOT AN

OFFICIAL COPY

The above referenced case was heard on August 5, 2009 and Respondent did not appear at the hearing. A Notice of Violation was issued on June 5, 2009 with a correction date of July 6, 2009. Compliance was not gained on July 6, 2009. The Special Magistrate ordered that the Respondent be given ninety (90) days from the hearing date to bring the property into compliance or a daily fine of One Hundred Fifty (\$150.00) Dollars would be assessed plus an Administrative Fee of One Hundred Fifty (\$150.00) Dollars.

The property located at 1955 S. E. 19th Avenue, Lauderdale-By-The-Sea, Florida, corresponding to Folio # 9307-04-0520, legally described as:
BEL-AIR ISLE 40-43 B LOT 51 LESS PT DESC IN OR 2378/558 BLK 1

Has not been brought into compliance and a daily fine of One Hundred Fifty (\$150.00) Dollars began to accrue on November 6, 2009 and continues to accrue until compliance is gained. The Final Order was mailed via Certified Mail on August 7, 2009. On March 3, 2010 Notice of Certification of Lien Intent was sent via certified mail for the hearing date March 17, 2010 and a signed return receipt was received. Respondent was not present.

Therefore, pursuant to Section 162.09, Florida Statutes, the Special Magistrate certifies as follows:

1. The Order of August 5, 2009 required the Respondent to bring the property into compliance ninety (90) days from the hearing date or be assessed a daily fine of One Hundred Fifty (\$150.00) Dollars. An Administrative Fee of One Hundred Fifty (\$150.00) Dollars was also imposed.
2. The Respondent has not brought the violation into compliance and the daily fine of One Hundred Fifty (\$150.00) Dollars continues to accrue as of November 6, 2009. Therefore, Special Magistrate imposes and certifies fines for the daily fine of One

(4)

Hundred Fifty (\$150.00) Dollars that continues to accrue until compliance is gained plus an Administrative Fee of One Hundred Fifty (\$150.00) Dollars.

3. That this Certification, together with the original Final Order, be recorded in the Public Records of the Office of the Clerk of the Circuit Court in and for Broward County, Florida. Pursuant to Section 162.09, Florida Statutes, these documents, once recorded, shall constitute a lien against the land on which the violation(s) exists, and upon any other real or personal property owned by Respondent.

4. If any person desires to appeal, pursuant to Section 162.11, Florida Statutes, such person will need a record of the proceedings which includes the testimony and evidence upon which the appeal is based.

Certification of Lien ordered at Lauderdale-By-The-Sea this 17th day of March, 2010.

ATTEST: **THIS IS NOT AN OFFICIAL COPY**

Special Magistrate of the
Town of Lauderdale-By-The-Sea

BY: *Colleen Tyrrell*
Colleen Tyrrell, Secretary for the Special Magistrate

BY: *Gordon B. Linn*
Gordon B. Linn, Special Magistrate

() Personally known to me

Copies furnished to:

MALINDA BARRETT & SEAN POTTS
1955 S. E. 19th Avenue
Lauderdale-By-The-Sea, FL 33062

Albertelli Law/ for Barrett & Potts
P. O. Box 23028
Tampa, FL 33623

FILE
MAR 19 2010
BY: C.J.

**TOWN OF LAUDERDALE BY THE SEA
MUNICIPAL CORPORATION OF FLORIDA
CODE COMPLIANCE SPECIAL MAGISTRATE**

CASE NUMBER: 09-KP-00682

TOWN OF LAUDERDALE BY THE SEA,
MUNICIPAL CORPORATION OF FLORIDA

PETITIONER

VS.

**MALINDA BARRETT & SEAN POTTS
1955 S.E. 19TH Avenue
Lauderdale-By-The-Sea, FL 33062**

RESPONDENT

FINAL ORDER

THIS IS NOT AN OFFICIAL COPY

HEARING DATE: August 5, 2009

VIOLATION(S): Failure to connect to the sanitary Sewer System. CODE SECTION: 20-16

An Administrative hearing was held before the Special Magistrate on August 5, 2009. Set below are the findings of fact, conclusions of law and final order for the subject hearing.

FINDINGS OF FACT

The record indicates that the Respondent(s) owns certain real property located at:
1955 S.E. 19TH Avenue, Lauderdale-By-The-Sea, FL 33062 and more particularly described as follows:

Tax Folio Number (Property I.D.): 9307-04-0520

At the hearing held on this matter on August 5, 2009 the Petitioner Town presented testimony by Code Compliance Officer Parker concerning her personal knowledge of the existence of the subject violation(s), and entered into the record evidence of notice required under Town Ordinance Section 20-16. Officer Parker presented backup material pertaining to the sanitary sewer system that was entered into evidence as Town's Composite Exhibit A through E. Officer Parker cited the property on June 5, 2009 with a compliance date of July 6, 2009 for failing to connect to the sanitary sewer system. Officer Parker said that the re-inspection that was done via the Broward County Building Code Services web-site indicated that a permit application had not been submitted for the sanitary sewer hook-up. Officer Parker said that she had received a letter dated July 7, 2009 stating that the house was under contract and that the new owner would need more time to hook up to the sewer system. A second letter was received August 3, 2009 requesting a continuance. Officer Parker indicated that there was no record that the property was under contract. The Respondent was not present at the hearing.

CONCLUSIONS OF LAW

Accordingly, based on the testimony and evidence referenced above, the Petitioner Town has met its burden of providing by substantial competent evidence that alleged violation(s) does in fact exist on the subject property but was not in compliance at or prior to the subject hearing.

MALINDA BARRETT & SEAN POTTS
CASE NUMBER: 09-KP-00682

ORDER

THEREFORE, BASED UPON THE ABOVE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UNDERSIGNED SPECIAL MAGISTRATE FINDS THE RESPONDENT(S) GUILTY OF VIOLATING: CODE SECTION 20-16.

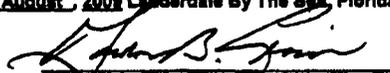
IN DETERMINING THE FINE AMOUNT TO BE IMPOSED, CONSIDERATION WAS GIVEN TO: (1) THE GRAVITY OF THE VIOLATION(S), (2) ANY ACTIONS TAKEN BY THE RESPONDENT(S) TO CORRECT THE VIOLATION(S); AND (3) ANY PREVIOUS VIOLATION(S) COMMITTED BY THE RESPONDENT(S).

FINALLY, THE PETITIONER, TOWN, VERIFIED THAT THE VIOLATION WAS NOT IN COMPLIANCE AT THE TIME OF THE HEARING.

THE SPECIAL MAGISTRATE DENIES THE RESPONDENT'S REQUEST FOR A CONTINUANCE AND ORDERS THAT THE RESPONDENT BE GIVEN NINETY (90) DAYS FROM THE HEARING DATE TO BRING THE VIOLATION INTO COMPLIANCE. FAILURE TO ABATE THE VIOLATION WITHIN THE NINETY (90) DAY TIMEFRAME, A ONE HUNDRED FIFTY (\$150.00) DOLLAR FINE PER DAY WOULD COMMENCE. THE MAGISTRATE ALSO IMPOSED A ONE HUNDRED FIFTY (\$150.00) DOLLAR ADMINISTRATIVE FEE.

THE TOWN MAY AVAIL ITSELF OF ALL LEGAL REMEDIES AVAILABLE TO IT, INCLUDING THE FORECLOSURE OF THE LIEN.

Done and Ordered this 5TH day of August, 2009 in Lauderdale By The Sea, Florida.


Gordon B. Linn, Special Magistrate

ATTEST:


Colleen Tyrrell, Secretary for the Special Magistrate

Cc to: N/A

Note: Please make your check payable to:

Town of Lauderdale-By-The-Sea

Please send your check to:

4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

FILE
AUG 07 2009
BY: _____