



# AGENDA ITEM MEMORADUM

Item No. 17a

**Development Services**

**Bud Bentley/Tuchette Torres**

Department

*BT* Department Director/Code Officer

*T.T.*

<b>COMMISSION MEETING DATE (*) - 7:00 PM</b>	<b>Deadline to Town Clerk</b>
<input checked="" type="checkbox"/> Feb 28, 2012	Feb 17

\*Subject to Change

- |                                       |   |                                       |  |
|---------------------------------------|---|---------------------------------------|--|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports        | <input type="checkbox"/> Consent      | <input type="checkbox"/> Ordinance               |
| <input type="checkbox"/> Resolution   | <input type="checkbox"/> Quasi-Judicial | <input type="checkbox"/> Old Business | <input checked="" type="checkbox"/> New Business |

**FY2011 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC**

**SUBJECT TITLE:** Application for Relief of Code Enforcement Lien at 4315 W Tradewinds Avenue.

**EXPLANATION:** The owner of the residential property (Brian Bauer) seeks relief from a code enforcement lien. The Town issued a Notice of Violation on September 13, 2011 for failure to maintain trash service. The Special Magistrate heard the case on October 19, 2011 and ordered the property owner to comply within 10 days or a fine of \$100 per day would commence. The owner corrected the violation on November 17, 2011. The owner's application is attached (**Exhibit 1**). The requested relief must be approved by the Town Commission. The table below provides a summary of the case:

**Case No. 11-KW-00653**

	Lien Amount	Offered Settlement	% of lien	# of Days in Violation
Violation	\$1,800	\$189	10.5% (3)	18
Administrative Expense	\$196 (1)	\$196		
<b>Total</b>	<b>\$1,996 (2)</b>	<b>\$385</b>		

- (1) Town cost of \$196 (\$125 administrative fee and \$71 recording fees).
- (2) In addition the owner paid the delinquent collection bill of \$101.49.
- (3) If the lien settlement and the administrative fee is calculated as a percentage of the delinquent collection bill, the owner is paying a penalty of 379% for a violation of 18 days.

Under the Town's procedures for relief from code enforcement liens, which was adopted under Resolution 2010-13, Subsection 2, 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 moderate.

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

The owner paid the violation on November 17, 2011, which was 18 days after the Special Magistrate ordered compliance date. The house was vacant at the time so the lapse was not a health issue.



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

The owner corrected the violation 18 days after the ordered compliance date.

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

The owner spent \$101.49 to correct the violation by paying the delinquent collection bill.

**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.**

Yes.

The property was issued Notice of Violations on October 6, 2010 and June 10, 2011 for the same violation. Both cases complied prior to being scheduled for a Code Enforcement hearing.

**RECOMMENDATION:** Because this was not a life safety violation, staff recommends approval of the requested relief from the code enforcement lien in the amount of \$189 plus administrative fees of \$196 (total of \$385) if paid within 30 days of Commission approval. In addition to the payment to the Town, the owner has paid the delinquent solid waste collection bill of \$101.49.

If the lien settlement and administrative fee of \$385 is calculated as a percentage of the delinquent collection bill, the owner is paying a penalty of 379% for the violation.

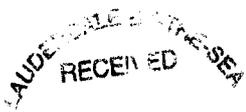
**EXHIBITS:** Exhibit 1-Respondent's Application and Staff's history of involvement.

Reviewed by Town Attorney  
 Yes  No

Town Manager Initials CA







JAN 19 2012

DEVELOPMENT SERVICES

# TOWN OF LAUDERDALE-BY-THE-SEA

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

## APPLICATION FOR RELIEF FROM CODE ENFORCEMENT FINES OR LIENS

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

CASE # 11-KW-00653

TOWN OF LAUDERDALE-BY-THE-SEA vs. Brian D. Bauer  
(Name of Respondent(s) as listed)

NAME OF APPLICANT: (Print): Jill Levy  
(Person to attend Hearing)

ADDRESS OF APPLICANT: 3111 NE 43rd St., Fort Lauderdale, FL 33308  
(Full mailing address)

PHONE NUMBER: (954) 309-7091

ADDRESS OF PROPERTY: 4315 W. Tradewinds Ave, LBTS, FL 33308  
(Where violation(s) existed)

NATURE OF VIOLATION: suspended trash service

TOTAL AMOUNT OF FINE: \$1925

AMOUNT REQUESTING FINE BE REDUCED TO: \$385, 20% of fine

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

**All Applications for Relief (where applicable) MUST have the following documentation provided as part of the Application to be reviewed:**

1. A copy of the Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
- N/A 2. A copy of the Foreclosure Complaint;
- N/A 3. A copy of the Foreclosure Order, with the recording date, book and page shown;
- N/A 4. A copy of the Final Summary Judgment of Foreclosure, with the recording date, book and page shown;
5. A copy of the Certification of Lien Order, with the recording date, book and page shown;
- N/A 6. A copy of the new Certificate of Title, with the recording date, book and page shown;
7. A copy of the Town's Final Order of Imposition of Fine; and

8. A copy of the Claim of Lien(s) with the recording date, book and page shown.

Please provide a copy of these requirements with all Applications for Relief.

**FACTORS RELEVANT TO APPLICATIONS FOR RELIEF:**

- A. The nature and gravity of the violation(s);
- B. Any actions you have taken to correct the violation(s);
- C. The length of time between the previously ordered compliance date and the date the violation(s) was brought into compliance;
- D. Any actual costs you expended to cure the violation(s), if supported by documentation;
- E. Any other prior or current violations you committed on the subject property or upon any other property you own within the Town; and
- F. Equitable considerations.

**WHY RELIEF SHOULD BE GRANTED** (This section must be completed and, at a minimum, should address the above factors):

My husband, Brian Bauer and I maintain the Tradeconder property as an investment. Nobody has lived in the property for over a year and were unaware we had to maintain trash service when there was no trash service needed. Once we received the order to correct the violation, <sup>(on or about Oct. 30, 2011)</sup> we paid the past due amount in full on NOV. 17, 2011. The transaction receipt is attached hereto. The nature and gravity of the violation was minimal with no prejudice to any neighbors as the home was otherwise fully maintained. We have rectified the violation in full and <sup>continue to pay the monthly service.</sup>

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

IF APPLICABLE:

Name Of Attorney/Representative: JILL LEVY

Address: 3111 NE 43<sup>rd</sup> St, Fort Lauderdale, FL 33308

Phone Number: (954) 309-7091

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.

*[Handwritten Signature]*

Signature of Applicant

*1.19.12*

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.)



Site Address	4315 W TRADEWINDS AVENUE , LAUDERDALE BY THE SEA	ID #	4943 18 06 0480
Property Owner	BAUER, BRIAN	Millage	0211
Mailing Address	3111 NE 43 ST FORT LAUDERDALE FL 33308	Use	01

Legal Description	SILVER SHORES SUB TRACT D 29-21 B PORTION OF LOTS 25 & 26 DESC AS, BEG AT A PT ON E/L OF LOT 25 SAID PT BEING 5 S OF SE COR OF LOT 26, NLY ALG E/L OF LOTS 25 & 26 FOR 50, WLY 34.20, SWLY 12.10, NWLY 4.75, SWLY 8.50, NWLY 3.75, SWLY 15.56, WLY 46.50, SLY ALG W/L OF LOTS 26 & 25, 44.50, ELY ALG S/L OF N 5 OF LOT 25 FOR 120 TO POB, BLK 9
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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(9).

Property Assessment Values					
Click here to see 2011 Exemptions and Taxable Values to be reflected on Nov. 1, 2011 tax bill.					
Year	Land	Building	Just / Market Value	Assessed / SOH Value	Tax
2012	\$310,260	\$144,430	\$454,690	\$454,690	
2011	\$310,260	\$144,430	\$454,690	\$454,690	\$9,169.55
2010	\$310,260	\$103,160	\$413,420	\$413,420	\$8,510.87

**IMPORTANT:** The 2012 values currently shown are "roll over" values from 2011. These numbers will change frequently online as we make various adjustments until they are finalized on June 1. Please check back here AFTER June 1, 2012, to see the actual proposed 2012 assessments and portability values.

2012 Exemptions and Taxable Values by Taxing Authority				
	County	School Board	Municipal	Independent
Just Value	\$454,690	\$454,690	\$454,690	\$454,690
Portability	0	0	0	0
Assessed/SOH	\$454,690	\$454,690	\$454,690	\$454,690
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	\$454,690	\$454,690	\$454,690	\$454,690

Sales History					Land Calculations		
Date	Type	Price	Book	Page	Price	Factor	Type
9/13/2005	WD	\$725,000	40550	1941	\$55.00	5,641	SF
12/10/2001	WD	\$399,000	32520	828			
7/1/1991	WD	\$134,000	18662	899			
5/1/1984	WD	\$100					
12/1/1977	QCD	\$100					
Adj. Bldg. S.F. (See Sketch)							1387

Special Assessments			

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

JAN 19, 2012

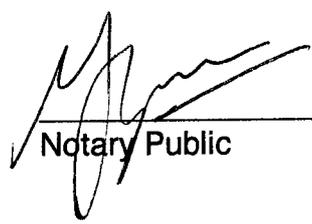
This letter is my authorization for my wife, Jill Levy, to represent me at any hearing in reference to my property at 4315 W.Tradewinds Ave., Lauderdale by the Sea, Fl 33308.



\_\_\_\_\_  
Brian Bauer

Personally known   
Produced ID \_\_\_\_\_

Sworn to and subscribed before me this 19<sup>th</sup> day of January, 2012

  
\_\_\_\_\_  
Notary Public

NOTARY PUBLIC-STATE OF FLORIDA  
Isabel G. Garcia  
Commission #DD778393  
Expires: APR. 13, 2012  
BONDED THRU ATLANTIC BONDING CO., INC.



PO BOX 22796 FORT LAUDERDALE, FL 33335  
Phone 954-623-6231 Fax 954-349-9483

### Transaction Receipt

Batch Number: 74669  
Date: 11/17/2011

Account No	Service Name	Apply To:	Check or Card Reference	Amount
7383000	BAUER BRIAN	523089	American Express-5004 VTJ	\$53.76
7383000	BAUER BRIAN	609640	American Express-5004 VTH	\$47.73



Town of  
**LAUDERDALE-BY-THE-SEA**  
CODE COMPLIANCE SPECIAL MAGISTRATE

4501 Ocean Drive, Lauderdale-By-The-Sea, Florida 33308-3610  
Telephone: (954) 776-3611 \* Fax: (954) 776-3431

TOWN OF LAUDERDALE-BY-THE-SEA,  
Municipal Corporation of Florida,  
Petitioner,

Case No. 11-KW-00653  
Code Compliance Officer: KIM WILLIAMS

v.

BRIAN BAUER,

**THIS IS NOT AN**  
Respondent  
**SPECIAL MAGISTRATE ORDER IMPOSING FINE AND CERTIFICATION OF LIEN**  
**OFFICIAL COPY**  
TO: BRIAN BAUER, 3114 N.E. 43<sup>rd</sup> Street, Fort Lauderdale, FL 33308

**VIOLATION:** 10-27 Code of Ordinances of the Town of Lauderdale-By-The-Sea, Florida (Trash service suspended. Resume and maintain trash service with Choice Waste at all times.)

**LOCATION OF VIOLATION:** 4315 W. Tradewinds Avenue Unit A, Lauderdale-By-The-Sea, FL 33308

On November 16, 2011, an administrative hearing in the above-referenced case was held before the Special Magistrate. Set below are the findings of fact, conclusions of law and order imposing and certifying fine.

**FINDINGS OF FACT**

The record indicates that the Respondent(s) owns certain real property located at 2031 Coco Palm Place, Lauderdale-By-The-Sea, FL 33062 (the "subject property"), more particularly described as follows:

**LEGAL DESCRIPTION:** SILVER SHORES SUB TRACT D 29-21 B PORTION OF LOTS 25 & 26 DESC AS, BEG AT A PT ON E/L OF LOT 25 SAID PT BEING 5 S OF SE COR OF LOT 26, NLY ALB E/L OF LOTS 25 & 26 FOR 50, WLY 34.20, SWLY 12.10, NWLY 4.75, SWLY 8.50, NWLY 3.75, SWLY 15.56, WLY 46.50, SL6Y ALG W/L OF LOTS 26 & 25, 44.50, ELY ALG S/L OF N 5 OF LOT 25 FOR 120 TO POB, BLK 9, recorded in Book 40560, Page 1941, of the Public Records of Broward County, Florida

**TAX FOLIO NUMBER (PROPERTY I.D.):** 4943-18-06-0480

This case stems from a Notice of Violation issued on September 13, 2011 for failing to reinstate service with Choice Waste Service. This case was previously before the Special Magistrate on October 19, 2011.

On October 19, 2011, the Special Magistrate found the Respondent guilty of violating Section 10-27 Code of Ordinances of the Town of Lauderdale-By-The-Sea (the "Code"), ordered the Respondent to bring the property into compliance by October 29, 2011, provided the respondent with notice that a daily fine in the amount of \$100 would begin to accrue on October 30, 2011, if the violation was not corrected by the date specified in the FINAL ORDER and imposed an ADMINISTRATIVE FEE in the amount of \$125.00.

On November 16, 2011 Code Compliance Officer, Kim Williams, testified under oath that the Respondent did not perform the corrective action ordered on October 19<sup>th</sup> 2011 and that the violation still exists. The Respondent was not present at the hearing.

CONCLUSIONS OF LAW

Accordingly, based on the testimony and evidence referenced above, the Town has met its burden of proving that the Respondent is still in violation of Section 10-27 of the Code, that this violation exists on the property and that the Respondent was not in compliance at or prior to the subject hearing.

It is hereby ordered as follows:

The Respondent must correct the violation on the subject property and pay the ADMINISTRATIVE FEE previously ordered on October 19, 2011.

It having been brought to the Special Magistrate's attention that the Respondent did not comply with the above-referenced Order, in consideration of the gravity of the violation, any actions taken by the Respondent to correct the violation and any previous violations committed by the Respondent as evidenced by the record in this case, a fine is hereby imposed and certified in the amount of \$100.00 per day beginning on November 30, 2011 until compliance or a judgment is rendered in a suit filed pursuant to section 162.09 (3), Florida Statutes. As of November 16, 2011, the daily fine which began on October 30, 2011 has accrued to a total amount of One Thousand Eight Hundred Dollars (\$1800.00) and will continue to accrue on a daily basis until the corrective action is completed. Additionally, administrative costs imposed under the October 19, 2011 Order are hereby certified in the total amount of One Hundred Twenty Five Dollars (\$125.00).

It is your responsibility to contact Code Compliance Officer Williams when you are in compliance.

Pursuant to Section 162.09, Florida Statutes, this Order imposing a FINE and an ADMINISTRATIVE FEE may be recorded in the Public Records of Broward County and, once recorded, shall constitute a lien against the property upon which the violation exists and upon and real or personal property owned by the Respondent. Upon petition to the circuit court, such Order may be enforced in the same manner as a court judgment by the sheriffs of the state, including levy against personal property, but it shall not be deemed to be a court judgment except for enforcement purposes.

Under Section 162.11, Florida Statutes, this Order may be appealed to the Circuit Court of Broward County, Florida within 30 days of the date of this Order.

Dated this 16<sup>th</sup> day of November, 2011.

SPECIAL MAGISTRATE  
TOWN OF LAUDERDALE-BY-THE-SEA

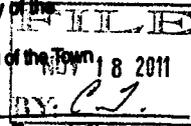
By: Gordon B. Linn  
Gordon B. Linn

ATTEST: Colleen Tyrell

Colleen Tyrell, Secretary for the Special Magistrate

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.  
WITNESSED by my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida  
21 day of November, 2011  
Jane White, CPC Town Clerk





Town of  
**LAUDERDALE-BY-THE-SEA**  
CODE ENFORCEMENT SPECIAL MAGISTRATE

4501 Ocean Drive, Lauderdale-By-The-Sea, Florida 33308-3610  
Telephone: (954) 776-3611 \* Fax: (954) 776-3431

TOWN OF LAUDERDALE-BY-THE-SEA,

Case No. 11-KW-00653

Petitioner,

v.

BAUER, BRIAN,

Respondent(s).

~~THIS IS NOT AN  
SPECIAL MAGISTRATE FINAL ORDER~~

TO: Brian Bauer, 3111 NE 43<sup>rd</sup> Street, Fort Lauderdale, FL 33308

VIOLATION: Section 10-27, Code of Ordinances of the Town of Lauderdale-By-The-Sea, Florida  
(Resume and maintain trash service with Choice Waste).

LOCATION OF VIOLATION: 4315 West Tradewinds Avenue, Lauderdale-By-The-Sea, FL 33308

On October 19, 2011, an administrative hearing in the above-referenced case was held before the Special Magistrate for the Town of Lauderdale-By-The-Sea, Florida. 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 4315 W. Tradewinds Avenue, Lauderdale-By-The-Sea, FL 33308 (the "subject property"), more particularly described as follows:

LEGAL DESCRIPTION: SILVER SHORES SUB TRACT D 29-21 B PORTION OF LOTS 25 & 26 DESC AS, BEG AT A PT ON E/L OF LOT 25 SAID PT BEING 5 S OF SE COR OF LOT 26, NLY ALG E/L OF LOTS 25 & 26 FOR 20, WLY 34.20, SWLY 12 TO, NWLY 4.75, SWLY 8.50, NWLY 3.75, SWLY 15.56, WLY 46.50, SLY ALSG W/L OF LOTS 26 & 25, 44.50 ELY ALG S/L OF N 5 OF LOT 25 FOR 120 TO POB, BLK 9, according to the Plat thereof, recorded in Book 40560, Page 1941, of the Public Records of Broward County, Florida

TAX FOLIO NUMBER (PROPERTY I.D.): 4943 18 06 0480

This case stems from a Notice of Violation issued on September 13, 2011 for failing to reinstate service with Choice Waste Service

Brian Bauer 4315 W Tradewinds Avenue – Case # 11-KW-00653

At the hearing held in this matter on October 19, 2011, the Town presented testimony by Code Enforcement Officer, Kim Williams, who testified under oath concerning her personal knowledge of the existence of the subject violation(s), and entered into record evidence of notice required under Chapter 162, Florida Statutes. The Respondent was not present at the hearing.

CONCLUSIONS OF LAW

Accordingly, based on the testimony and evidence referenced above, the Town has met its burden of proving that the Respondent(s) violated Section 10-27 of the Code and that the violation(s) exists on the subject property.

ORDER

It is hereby ordered as follows:

Based upon the above findings of fact and conclusions of law, the undersigned Special Magistrate finds that the Respondent(s) violated Section 10-27 of the Code and that the violation(s) exists on the subject property.

The Respondent(s) must correct the violation(s) on the subject property within 10 days of the date of this Order by re-instating trash service with Choice Waste. Failure to comply within the specified time period shall subject the Respondent to a fine of \$100.00 per day. Additionally, an administrative fee in the amount of \$125.00 is hereby imposed against the Respondent(s), which is due and payable within 10 days of the date of this Order.

In determining the fine amount to be imposed, consideration was given to the gravity of the violation(s), any action taken by the Respondent to correct the violation(s) and any previous violations committed by the Respondent(s).

It is your responsibility to contact Code Enforcement Officer Williams when you are in compliance.

Under Section 162.11, Florida Statutes, this Order may be appealed to the Circuit Court of Broward County, Florida, within 30 days of the date of this Order.

Dated this 19th day of October, 2011.

SPECIAL MAGISTRATE  
TOWN OF LAUDERDALE-BY-THE-SEA

By: [Signature]  
Gordon B. Linn

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

ATTEST:  
[Signature]  
Colleen Tyrrell, Clerk to the Special Magistrate

WITNESSED by my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

21 day of November, 20 11  
[Signature] Town Clerk

OCT 25 2011  
BY: [Signature]