

# APPLICATION FOR RELIEF FROM CODE FINES OR LIENS

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## TOWN OF LAUDERDALE-BY-THE-SEA

4501 Ocean Drive  
Lauderdale-By-The-Sea, FL 33308  
Tel: (954) 640-4210 Fax: (954) 634-4654

**Notice: This application is available as a WORD document for your convenience.**

The Town accepts applications for code fine relief from owners of properties that have corrected ALL of the violations on the subject property. In certain very limited circumstances, the purchaser of a single family property may apply for a code fine or lien reduction before compliance is complete.

*The Town's policy and procedures for code relief is set forth in Resolution 2014-22. You are required to read Resolution 2014-22 prior to submitting your relief application.*

CASE #

TOWN OF LAUDERDALE-BY-THE-SEA vs.

(Name of Respondent(s) as listed)

Property owner:

Address:

Phone numbers:

Email Address:

ADDRESS OF PROPERTY:

(Where violation(s) existed)

NATURE OF VIOLATION:

Name of applicant (if not owner):

Contact information:

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

**All Applications SHALL submit a copy of the following documentation (when applicable):**

(Reference any supporting documentation as Exhibit 1, Exhibit 2, and so forth.)

1. Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
2. Foreclosure Complaint;

# APPLICATION FOR RELIEF FROM CODE FINES OR LIENS

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3. Foreclosure Order, with the recording date, book and page shown;
4. Final Summary Judgment of Foreclosure, with the recording date, book and page shown;
5. Certification of Lien Order, with the recording date, book and page shown;
6. New Certificate of Title, with the recording date, book and page shown;
7. Town's Final Order of Imposition of Fine; and
8. Claim of Lien(s) with the recording date, book and page shown.
9. Reduced payment offer per case. Justification of the offered amount must be provided for each case.

## FACTORS RELEVANT TO APPLICATIONS FOR RELIEF:

1. The nature and gravity of the violation(s);
2. Any actions you have taken to correct the violation(s);
3. The length of time between the previously ordered compliance date and the date the violation(s) was brought into compliance;
4. Any actual costs you expended to cure the violation(s), if supported by documentation;
5. Any other prior or current violations you committed on the subject property or upon any other property you own within the Town; and
6. Equitable considerations.
  - i. Whether there was any extraordinary hardship which existed or currently exists;
  - ii. Whether the Applicant was the property owner when the fine or lien was imposed;
  - iii. Whether the property is homestead or non-homestead property;
  - iv. Whether the Town lien is interfering with the sale or restoration of the property or will prevent the property from being conveyed to a new owner.

## WHY RELIEF SHOULD BE GRANTED:

(When you completed this section, at a minimum, address the above factors.)

(Reference any supporting documentation as Exhibit 1, Exhibit 2, and so forth.)

# APPLICATION FOR RELIEF FROM CODE FINES OR LIENS

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**Name of Property Owner or Representative:**

Address:

Business Phone Number:

Cell Phone Number:

Email Address:

**I CERTIFY THAT I have read Resolution 2014-22 and that I am:**

- the owner of the subject property;
- an Attorney representing the owner,
- the legal representative for the property, or
- otherwise authorized to act on behalf of the property owner in this matter.

**AND DOCUMENTATION OF THIS IS ATTACHED.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

# APPLICATION FOR RELIEF FROM CODE FINES OR LIENS

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## PROCEDURES FOR RELIEF FROM CODE LIENS OR FINES

### **Application:**

A non-refundable application fee is required to be submitted with your completed application.

A ***completed*** Application for Relief will be considered by the Town Manager or the Town Commission as follows:

- A. The Town Manager is authorized to negotiate and settle Code liens or fines when the negotiated reduced fine is within the Town Manager's Purchasing Authority (\$15,000) and the reduction in fines is less than 50% of the amount owed.
- B. If the Application requires Town Commission approval, it will be set for the next available regular Town Commission meeting date after all requirements have been met and after the Application is approved by the Town Manager.

The Town Manager or designee shall notify the Applicant of the scheduled hearing. The property owner or violator requesting the reduction of fine must appear at the hearing for the reduction of fine unless they designated an agent, in which case the designated agent shall appear at the hearing. No such hearing shall proceed if the Applicant or representative is not present at the hearing.

## **PAYMENT AND PERFORMANCE**

Any relief granted shall be contingent upon payment of any outstanding amounts within the specified time period and completion of any required performance to effectuate code compliance. Failure to provide valid payment to the Town or to perform as required within the specified time period shall cause the original penalty(s) to continue and the approved relief to terminate without any future action of the Town.

Upon showing by the Applicant of a valid reason beyond the control of the Applicant, the Town Manager may approve one limited time extension if in the best interest of the Town. Once the Town has verified code compliance and received the monies due the Town, the Town will prepare and record the applicable release of lien.

**RESOLUTION 2014-22**

1           **A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-**  
2           **THE-SEA, FLORIDA, AMENDING THE PRIOR TOWN**  
3           **CODE POLICY FOR THE REDUCTION OF CODE**  
4           **ENFORCEMENT FINES OR LIENS; ESTABLISHING A**  
5           **NEW PROCEDURE FOR REQUESTING REDUCTION OF**  
6           **TOWN CODE ENFORCEMENT FINES OR LIENS;**  
7           **PROVIDING AUTHORIZATION TO THE TOWN**  
8           **MANAGER; PROVIDING FOR CONFLICT,**  
9           **SEVERABILITY, AND AN EFFECTIVE DATE.**

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11           **WHEREAS,** pursuant to Town Charter Section 5.5(9), the Town Commission may  
12 by motion, direction, ordinance or resolution assign additional duties to the Town Manager;  
13 and

14           **WHEREAS,** Section 162.09(3), Florida Statutes, provides that "[a] lien arising from  
15 a fine imposed pursuant to this section runs in favor of the local governing body, and the  
16 local governing body may execute a satisfaction or release of lien entered pursuant to this  
17 section;" and

18           **WHEREAS,** the Town Commission adopted Resolution 2013-05 on February 26,  
19 2013, executed on March 1, 2013, re-establishing and amending a Town policy and procedure  
20 established in 2010 by Resolution 2010-13, by which persons may request that the Town  
21 reduce code enforcement fines or liens against their properties (the "Town Code Settlement  
22 Policy"); and

23           **WHEREAS,** the Town Commission desires to further amend the Town Code Settlement  
24 Policy.

25 **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE**  
26 **TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA THAT:**

27           **Section 1. Recitals.** Each "WHEREAS" clause set forth is true and correct and  
28 herein incorporated by this reference.

29           **Section 2. Policy Amended.** The Town Commission hereby adopts Exhibit "A",  
30 attached hereto, as the revised Town Code Settlement Policy.

31           **Section 3. Authorization of Town Manager.** Consistent with the revised Policy,

RESOLUTION 2014-22

32 the Town Commission continues to delegate to the Town Manager the authority to negotiate  
33 and settle code liens or fines as provided therein, and continues to authorize the Town Manager  
34 to develop any procedures or forms deemed necessary to implement the Town Code Settlement  
35 Policy.

36 Section 4. Conflicts. All Resolutions or parts of Resolutions in conflict herewith,  
37 be and the same are repealed to the extent of such conflict.

38 Section 5. Severability. If any section, sentence, clause or phrase of this  
39 Resolution or Exhibit is held to be invalid by any court of competent jurisdiction, then said  
40 holding shall in no way affect the validity of the remaining portions of this Resolution.

41 Section 6. Effective Date. This Resolution shall become effective immediately  
42 upon its passage.

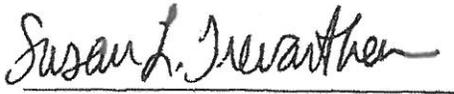
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44 PASSED AND ADOPTED this 10<sup>th</sup> day of June, 2014.

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48 Mayor Scot Sasser

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52 Attest:

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56 Town Clerk

APPROVED AS TO FORM:

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59 Susan L. Trevarthen, Town Attorney

60 (CORPORATE SEAL)

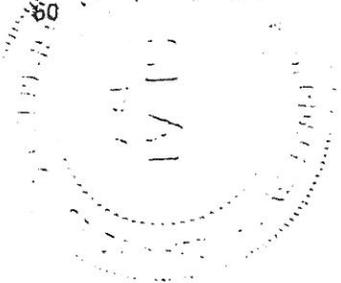


Exhibit "A" to Resolution 2014-22

Town of Lauderdale-By-The-Sea

TOWN CODE SETTLEMENT POLICY

PROCEDURES FOR RELIEF FROM CODE FINES OR LIENS

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1. **Application.** – A completed and executed Town Application for Relief shall be filed with the Town Manager or designee. In order for the Town to process an Application for relief, all of the violations on the property must be in compliance except as noted in Section 2 below, and the Application shall include all of the following, plus any additional information required by the Town Manager:
    - A. The name and contact information of the property owner. If represented by an attorney or representative, the contact information of that person; and the attorney or representative shall either file a Notice of Appearance, or must sign the application.
    - B. Address or brief legal description, or both, of the property on which the violation(s) occurred.
    - C. Sufficient information (including the nature of violation(s), the date or approximate date on which violation(s) occurred, date or approximate date on which finding of violation(s) was made or on which penalty was imposed, and citation or case number.) A copy of the order shall be attached.
    - D. An explanation of the relief sought, along with any supporting documentation and evidence.
    - E. The non-refundable application fee.
  
  2. **Code Compliance.** - It is the policy of the Town Commission that prior to accepting an Application for Relief, all of the violations on the subject property shall be in compliance; however, when the sale or transfer of a ~~single family residence~~ property<sup>1</sup> to a new owner is hindered because it has a continuing code violation(s), the Town will accept an Application for Relief from the prospective buyer subject to the following:  
Applicable Only to Single Family Residences with Code Violations.
    - A. The purchase is an arm's length transaction between unrelated parties. Documentation shall be provided of all persons and entities that have an interest in the property (buyers and sellers).
    - B. The buyer has a valid executed sales contract with limited exceptions or contingencies, which are acceptable to the Town.
    - C. The buyer proposes a specific date by which the code violation(s) will be corrected and the reduced fine amount will be paid to the Town.
    - D. The buyer acknowledges the terms and conditions of a Town Order Reducing Code Enforcement Liens or Fines, which will substantially provide:

<sup>1</sup> Additions are shown in underline font; deletions are shown in ~~strikethrough~~ font.

# Exhibit "A" to Resolution 2014-22

## Town of Lauderdale-By-The-Sea

### TOWN CODE SETTLEMENT POLICY

#### PROCEDURES FOR RELIEF FROM CODE FINES OR LIENS

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- i. The buyer takes the property subject to the accruing code liens and fines and agrees to perform as provided in the relief order approved by the Town.
- ii. If the code violations are not corrected within the specified time period and the reduced fine amount is not paid, the relief agreed to by the Town shall terminate without any future action of the Town.
- iii. A waiver of any right to challenge the Town's entitlement to the initial code fines or liens, any remaining outstanding fines or liens, or the Town's handling of the application for relief.
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3. **Town Foreclosure Proceedings.** - The Town will not grant relief to any Applicant whose property is subject of any pending foreclosure proceedings filed by the Town Attorney's Office without the express written approval of the Town Attorney's Office.
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4. **Hearing Authority.** - A properly submitted Application for Relief will be considered by the Town Manager or the Town Commission as follows:
- A. The Town Manager is authorized to negotiate and settle Code liens or fines when the negotiated reduced fine is within the Town Manager's Purchasing Authority and the reduction in fines is less than 50% of the amount owed.
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- B. If the Application requires Town Commission approval, it will be set for the next available regular Town Commission meeting date after all requirements have been met and after the Application is approved by the Town Manager. The Town Manager or designee shall notify the Applicant of the scheduled hearing. The property owner or violator requesting the reduction of fine must appear at the hearing for the reduction of fine unless they designated an agent, in which case the designated agent shall appear at the hearing. No such hearing shall proceed if the Applicant or representative is not present at the hearing.
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5. **Determination.** - The Hearing Authority shall consider all relevant factors to determine what relief, if any, is appropriate including, but not limited to the following factors:
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- A. The nature and gravity of the violation(s);
- B. Any actions taken by the applicant 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 expended by the applicant to cure the violation(s), if supported by documentation;
- E. Any other prior violations committed by the applicant on the subject property or upon any other property owned by the applicant within the Town; and
- F. Equitable considerations.

Exhibit "A" to Resolution 2014-22

Town of Lauderdale-By-The-Sea

TOWN CODE SETTLEMENT POLICY

PROCEDURES FOR RELIEF FROM CODE FINES OR LIENS

- 135 i. Whether there was any extraordinary hardship which existed or currently
- 136 exists;
- 137 ii. Whether the Applicant was the property owner when the fine or lien was
- 138 imposed;
- 139 iii. Whether the property is homestead or non-homestead property;
- 140 iv. Whether the Town lien is interfering with the sale or restoration of the
- 141 property or will prevent the property from being conveyed to a new owner.

142 The Hearing Authority shall enter an Order, in a form approved by the Town Attorney,  
 143 denying or granting the requested relief, or such relief as the Hearing Authority deem  
 144 proper, and may direct such action as may be appropriate to effectuate the ordered relief.

145 A copy of the Order approving or denying the Application shall be furnished to the  
 146 Applicant, and may be served by U.S. First Class Mail.

147 Applicants who accept the offered relief under this procedure shall sign a waiver  
 148 prepared by the Town Attorney of any right to challenge the Town's entitlement to the  
 149 remaining outstanding fines or liens, or the Town's handling of the Application for relief  
 150 and if applicable Town Order Reducing Code Enforcement Liens.  
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152 6. **Payment and Performance.** – Any relief granted shall be contingent upon payment of  
 153 any outstanding amounts within the specified time period and completion of any required  
 154 performance to effectuate code compliance. Failure to provide valid payment to the  
 155 Town or to perform as required within the specified time period shall cause the original  
 156 penalty(s) to continue and the approved relief to terminate without any future action of  
 157 the Town.  
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159 Upon showing by the Applicant of a valid reason beyond the control of the Applicant,  
 160 the Town Manager may approve one limited time extension if in the best interest of the  
 161 Town. Once the Town has verified code compliance and received the monies due the  
 162 Town, the Town will prepare and record the applicable release of lien.  
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164 7. **Denial with Prejudice.** – The Hearing Authority may deny the application with or  
 165 without prejudice depending on the circumstances of each case.  
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167 **Appeal.** – Relief under this policy is strictly discretionary by the Town, and the Town's disposition of an  
 168 Application shall not be subject to appeal.