

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark J. Kutney, Development Services Director

PREPARED BY: Daniel J. Stallone, Code Compliance Official

SUBJECT: Resolution

AFFECTED DISTRICT: 4

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO.02-833 FROM \$17,400.00 IN AMOUNT TO \$3,794.98; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF: The Code Compliance Division initiated a code compliance case on June 18, 2002 related to the failure of the property owner to obtain building permits. The respondent(s) was brought to a special magistrate hearing on June 18, 2002, so as to respond to a Notice of Violation for violations of the following town code section:

5-8 Building Permit Application for construction within a condominium unit or upon property subject to recorded regulations enforceable by a homeowners association; a written consent shall be required from the applicable homeowners or condominium association to the building division prior to the issuance of a building permit to such applicant.

8-16 Building Permit

In accordance with Section 104.1 of the Florida Building Code and this chapter, no construction or development, or substantial improvements on any property within the town shall be undertaken until after an applicable permit has been obtained from the Building Official.

The Town's Special Magistrate issued a Final Order on July 24, 2002 after finding that the violations were valid. Thereafter, for fifty eight (58) days, the violations continued and the Final Order was violated. The Special Magistrate fined the respondent two hundred and fifty dollars (\$250.00) per violation for each day of noncompliance equal to

a seventeen thousand four hundred (\$17,400.00) fine. The fine was recorded as a lien in the Broward County Public records.

The mitigated amount will cover the Town's expenses and the recommended mitigation guideline amount of \$3,794.98 may be considered for approval by the Town Council; upon such approval, the respondent may be given forty-five (45) days to pay the mitigated amount.

PREVIOUS ACTIONS:

CONCURRENCES:

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

If yes, expected cost: \$

Account Name:

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S):

Attachment(s): Resolution, Mitigation Application Review Form, Mitigation Worksheet, Mitigation Request Summary, Letter from Graner & Heimovics, P.A. and Lydecker, Lee, Behar, Berga & De Zayas, L.L.C., Mitigation Inspection Report, Mitigation Guidelines

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO.02-833 FROM \$17,400.00 IN AMOUNT TO \$3,794.98; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Philip Gori has requested a mitigation of a Code Compliance lien from \$17,400.00; and

WHEREAS, the Town of Davie Code Compliance Division has determined that the violation of Code Sections 5-8 & 8-16 were corrected; and

WHEREAS, the Town of Davie Code Compliance Division Mitigation Guideline has proscribed a mitigation amount equal to \$3,794.98; and

WHEREAS, Philip Gori and the Town of Davie Code Compliance Division are agreeable to the mitigation of the Code Compliance lien; and

WHEREAS, the Town Council is agreeable to such mitigation of the Code Compliance lien.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the certain Code Compliance lien arising out of Case No.02-833 in the amount of \$17,400.00 against Philip Gori, is hereby mitigated in amount to \$3,794.98.

SECTION 2. That this mitigated amount of \$3,794.98 be paid to the Town within 45 days of the enactment of this Resolution. Should this amount of \$3,794.98 not be paid within the specified time the lien shall revert to the original amount of \$17,400.00.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2007

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2007

**TOWN OF DAVIE
CODE COMPLIANCE DIVISION
MITIGATION APPLICATION REVIEW FORM**

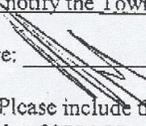
SECTION 1: (To be completed by Code Compliance Supervisor)

1. Name of Respondent(s)/Applicant(s): Barry Henson, Original Respondent
 Philip Gori, Current Property Owner
2. Case Number: Code Compliance Case No. 02-833
3. Total amount of Code Compliance Lien(s)/Administrative Fine(s): \$17,400.00
4. Is Respondent(s)/Applicant(s) in compliance with applicable Town Code Sections: X Yes
 No
(If the answer to Question 4 is no, do not complete Question 4, as compliance is a prerequisite to further processing.)
5. Mitigation amount recommended by the Town Council approved guidelines: \$3,794.98

SECTION 2: (To be completed by Respondent(s)/Applicant(s))

1. Please state any and all reasons why the Town should agree to mitigate the Code Compliance Lien(s)/Administrative Fines:

The Violations were corrected shortly after the Lien was imposed, however, the prior owner failed to notify the Town of Davie.

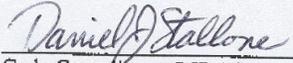
Signature:  Attorney in Fact Date: 6-15-07

2. Please include the amount which you request the Code Compliance Lien(s) to be mitigated to \$3794.98

Note: The Code Compliance Division will submit your request to the Town Council to either accept or deny your mitigation amount; if your request is less than the mitigation guideline amount, the Code Compliance Division shall automatically make a recommendation to deny your mitigation request. In the event you do not agree with the mitigation guideline amount as set forth in Section 1 above, the matter will be referred to a Special Magistrate who will make a recommendation to the Town Council. The decision to grant or deny the request for mitigation will be made by Town Council. In the event the Town approves your mitigation request, you must pay the mitigated amount to the Town of Davie within 45 days of Town Council approval or the Code Compliance Lien(s)/Administrative Fine(s) will remain in effect in the original amount.

SECTION 3: (To be authorized by Department Director)

The Code Compliance Division hereby submits the request made by the Respondent/Applicant, in Section 2, to mitigate the Code Compliance Lien(s)/Administrative Fine(s) in Case Number 02-833 from a total of \$17,400.00 to the amount requested by the Respondent/Applicant which is \$3,794.98, for consideration by the Town Council.


Code Compliance Official

7-10-07
Date

Department Director

Date

**TOWN OF DAVIE CODE COMPLIANCE
MITIGATION WORKSHEET
CASE #02-833**

Respondent(s): Barry Henson, Original Respondent
Philip Gori, Current Property Owner

Address: 14820 Tetherclift Street
Davie, FL

Fine/Lien Amount: \$17,400.00

Mitigation Recommendation:
(as per approved mitigation guidelines)

a) 10 % of 17,400.00	=	\$ 1,740.00
b) 6% of \$ 17,400.00 58 days of non-compliance equals 6% per 60 days or part thereof =	=	\$ 1,044.00
c) Mitigation Base Fee (Town costs incurred by Code Compliance)	=	\$ 1,010.98
Total	=	\$ 3,794.98

MITIGATION REQUEST SUMMARY

DATE: June 4, 2007

NAME: Barry Henson, Original Respondent
Philip Gori, Current Property Owner

ADDRESS: 14820 Tetherclift Street
Davie, FL

CASE: 02-833

SUMMARY:

Date respondent cited: June 18, 2002

Date of Final Order: July 24, 2002

Non-Compliance Hearing(s): October 22, 2002

Fine/Lien(s) Imposed:	\$
17,400.00	

Department Guideline recommended mitigation amount:	\$
3,794.98	

Amount the respondent desires to pay:	\$
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The property owner was cited for the following violations of the Town of Davie Code:

Code Section 5-8 - Notice to Homeowners Association regarding a building permit.

Code Section 8-16 – Town of Davie code regulation regarding the requirement of obtaining a building permit prior to the commencement of building construction.

The mitigated amount will cover the Town expenses and the recommended mitigated amount of \$3,794.98 should be considered and approved by the Town Council and the respondent given 45 days to pay the mitigated amount.

DANIEL J. STALLONE
CODE COMPLIANCE OFFICIAL

THOMAS U. GRANER, ESQUIRE
JOSEPH B. HEIMOVICS, ESQUIRE
Also licensed in Georgia
STEVEN K. PLATZEK, ESQUIRE



Graner & Heimovics, P.A.
ATTORNEYS AT LAW

399 W. PALMETTO PARK ROAD
SUITE 100
BOCA RATON, FLORIDA 33432

TELEPHONE (561) 750-2445
FACSIMILE (561) 750-2446

May 24, 2007

Via Facsimile & U.S. Mail

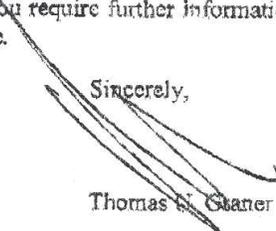
Danny Stallone, Esq.
c/o Andrew J. Rothen, Esq.
LYDECKER, LEE, BEHAR, BERGA
& de ZAYAS, L.L.C.
1201 Brickell Avenue, 5th Floor
Miami, FL 33131

Re: Gori v. Town of Davis

Dear Mr. Stallone:

Pursuant to our conversation of this date, please allow this letter to serve as a request for mitigation in connection with the Order imposing an enforcement lien on my client's property. Should you require further information relating to this request, please do not hesitate to contact me.

Sincerely,


Thomas U. Graner

TUG/jcl

LYDECKER, LEE, BEHAR,
BERGA & DE ZAYAS, L.L.C.
Attorneys and Counselors at Law

Bonita Springs Office:
(Also servicing Naples & Ft. Myers)
27499 Riverview Center Blvd.
Suite 21 A
Bonita Springs, Florida 34134
Telephone: (239) 444-4380
Facsimile: (239) 444-4381

Miami Office:
(Also servicing the Florida Keys & Ft. Lauderdale)
1201 Brickell Avenue
Fifth Floor
Miami, Florida 33131
Telephone: (305) 416-3180
Facsimile: (305) 416-3190

West Palm Beach Office:
(Also servicing Daytona & Orlando)
301 Clematis Street
Suite 3000
West Palm Beach, Florida 33401
Telephone: (561) 655-6661
Facsimile: (561) 655-6186

Mayor Manuel A. Diaz (City of Miami)
Of Counsel

Please reply to Miami Office

May 30, 2007

Via Facsimile and U.S. Mail

Mr. Daniel Stallone
Town of Davie - Code Compliance
6591 Orange Drive
Davie, Florida 33314

Re: *Philip Gori v. Town of Davie*

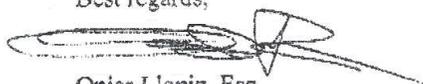
Case No. : CACE 07004203 (21)
Insured : Town of Davie
PGCS Claim No. : 133813
Date of Incident : 10/26/06
Our File No. : 27218

Dear Mr. Stallone:

Per your request, enclosed please find a formal request from Plaintiff's counsel requesting mitigation in the above-referenced matter. Once you have completed your report and have information regarding the date Plaintiff's case will be heard before the Town Council and information concerning potential mitigation costs, please contact our office to inform us of same.

We thank you for your cooperation. Should you have any questions or concerns regarding the foregoing, please do not hesitate to contact us at your convenience.

Best regards,


Onier Llopiz, Esq.
Andrew J. Rothen, Esq.

OLL/AJR: ks
Enclosures (as stated)
cc: Daniel Lutzke
Thomas Graner, Esq.



DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE DIVISION

6591 ORANGE DRIVE • DAVIE, FLORIDA 33314-3399
PHONE: 954.797.1121 • FAX: 954.797.1119 • WWW.DAVIE-FL.GOV

MITIGATION INSPECTION REPORT

CASE NO. 02-833

DATE MITIGATION REQUESTED: 5/24/2007

DATE FINAL ORDER ISSUED: 7/24/2002

REINSPECTION DATE 6/9/07

RESPONDENT(S) Barry Henson (Former Owner) Phillip Gori (Current Owner)

PROPERTY ADDRESS

14820 Tetherclift Street, Davie

VIOLATIONS COMPLIED X NOT COMPLIED _____

MITIGATION HEARING DATE (if applicable) None

LIST VIOLATIONS COMPLIED: TOWN CODE SECTIONS:

- 1) 5-8 - Notification to Homeowners Association for Building Construction - Related Permits.
- 2) 8-16 - Requirement to obtain building permit for Construction - Related Activities (shed).

LIST VIOLATIONS NOT COMPLIED: None

INSPECTOR

D. Phillips

DATE

7/10/07

MITIGATION GUIDELINES

FINE AMOUNT

RECOMMENDATION

Fine to \$10,000	7.5% of the amount plus an additional 5% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$10,000 - \$20,000	10.0% of the amount plus an additional 6% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$20,001 - \$30,000	12.5% of the amount plus an additional 7% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$30,001 - \$40,000	15.0% of the amount plus an additional 8% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$40,001 - \$50,000	17.5% of the amount plus an additional 9% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$50,001 - \$60,000	20.0% of the amount plus an additional 10% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$60,001 - \$70,000	22.5% of the amount plus an additional 11% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$70,001 - \$80,000	25.0% of the amount plus an additional 12% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$80,001 - \$90,000	27.5% of the amount plus an additional 13% For each sixty (60) days of violation plus actual costs incurred by the Town.
\$90,001 - \$100,000	30.0% of the amount plus an additional 14% For each sixty (60) days of violation plus actual costs incurred by the Town.
Over \$100,000	35.0% of the amount plus an additional 15% For each sixty (60) days of violation plus actual costs incurred by the Town.

This schedule would be utilized for first time violators and repeat violators.

MITIGATION BASE FEE (COST OF CASE ADMINISTRATION AND DEVELOPMENT) SHALL BE ADDED TO THE TOTAL DERIVED FROM APPLICATION OF ABOVE GUIDELINES. THE MITIGATION BASE FEE IS BASED UPON THE EXPENSES INCURRED BY TOWN EMPLOYEES AND ALL ACCOMPANYING COSTS.
MITIGATION BASE FEE* \$ 1010.98

*Subject to revision as per current staff salaries.

