

Vock, Tammy

From: Cohn, Vanessa N. [vncohn@arnstein.com]
Sent: Wednesday, December 19, 2012 11:49 AM
To: Vock, Tammy; Roger Malman; Kenneth Weiss
Cc: Bisnett, Tracey E.; vncohn@arnstein.com
Subject: Vero Beach Closing - CODE ENFORCEMENT LIEN ISSUE [WVOV-ACTIVE.FID1500494]
Attachments: F1211-02 city lien.pdf

6-1A)

Dear Ms. Vock

Thank you for your voice mail regarding the above reference matter. This e-mail confirms that Mr. Kenneth Weiss will appear at the 1/8/13 City Council meeting, and he will be given the opportunity to address he City Council on this matter. No further action is needed from us. Moreover, the hearing commences at 9:30 and will be held at 1053 20th Place, Vero Beach, FL 32960. If you have any question, of if I am in error in any way, please let me know immediately.

Regards,

Vanessa N. Cohn
Attorney at Law
ARNSTEIN & LEHR LLP
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302 Knights Run Avenue
Suite 1100
Tampa, Florida 33602-5962
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Offices in Illinois, Florida, and Wisconsin

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Office of the
City Clerk

City of Vero Beach

1053 20th Place – P.O. Box 1389
Vero Beach, Florida 32961-1389
Telephone: (772) 978-4700 / Fax: (772) 978-4790

November 27, 2012

Mr. Tim Dai

RE: Code Enforcement Board Case #11-CE-2498 for property located at 2715 Atlantic Boulevard, Vero Beach, Florida

Dear Mr. Dai:

Below is a breakdown on the amount owed to release the current liens on the above property. If you have any questions, please do not hesitate to contact me at 772-978-4700.

A civil penalty of \$50.00.

A continuing penalty of \$50.00 a day commencing on August 24, 2011 and ending on the date the property was brought into compliance of May 22, 2012 (272 days at \$50.00 a day), which totals \$13,600.00.

The recording fee for the Order to correct violations and pay civil penalties and costs and imposing continuing penalties for noncompliance and for the Order finding correction of violation and to pay civil penalties and costs, which totals \$45.50.

A cost of prosecution in the amount of \$126.85.

The cost for the City Attorney to prepare a Release of Lien in the amount of \$59.15.

The recording fee for the Release of Lien in the amount of \$18.50.

Total amount due: \$13,900.00

Sincerely,

Sherri Philo, CMC
Deputy City Clerk
City of Vero Beach

/sp



**BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH, FLORIDA
1053 20TH PLACE
VERO BEACH, FLORIDA 32960**

CITY OF VERO BEACH

vs.

Nanny's of Vero Beach, Inc.
3107 Grandflora Drive
Greenacres, FL 33467

and

**CASE No.: 11-CE-2498
Citation No.: 722D**

2715 Atlantic Blvd.
Vero Beach, FL 32960

2232743
THIS DOCUMENT HAS BEEN
RECORDED IN THE PUBLIC RECORDS
OF INDIAN RIVER COUNTY FL
BK: 2600 PG:1558, Page1 of 2
08/22/2012 at 12:51 PM,

JEFFREY R SMITH, CLERK OF COURT

**ORDER FINDING CORRECTION OF VIOLATION
AND TO PAY CIVIL PENALTIES AND COSTS**

VIOLATION: City of Vero Beach Code ("Code") section 38-31(b)(1), weeds, grass and undergrowth at a height of more than 12 inches throughout the property.

VIOLATION ADDRESS: 2715 Atlantic Boulevard, Vero Beach, Florida 32960

LEGAL DESC.: Parcel #33390300003003000013.0, Block Manor S/D, Blk 3, Lots 13 & 14

The above styled case having come before the Code Enforcement Board of the City of Vero Beach ("Board") on the 8th day of August 2012 on request of the issuing code enforcement officer for a final order and the Board having heard the report of the code enforcement officer regarding correction of the violation, on motion made and approve, found that:

1. The notice of this hearing was served as provided by law however the violator failed to respond or appear.
2. The Code violation was corrected as of May 22, 2012 and accordingly accrual of the continuing civil penalties shall cease as of the final day of violation, May 21, 2012.
3. The violators have not paid the civil penalty of \$50.00 assessed on the citation or the continuing penalties assessed in the Notice of Assessment and imposed by the Board's previous order entered November 18, 2011, a certified copy of which order was recorded in the public records of Indian River County, Florida on November 21, 2011 in Official Record Book 2536 at page 1223.
4. Continuing civil penalties of \$13,600.00 have accrued as of the last day of violation (August 24, 2011 through May 21, 2012 = 272 days x \$50.00 per day), for total civil penalties of \$13,650.00 now due and payable as of the date of this hearing.
5. The City incurred enforcement costs of \$126.85 which the City is entitled to recover pursuant to law, together with all costs of recording the Board's orders in this case and satisfying and recording the resulting liens (currently \$70.50), for a total currently due of \$13,847.35.

IT IS THEREFORE ORDERED AND ADJUDGED BY THE BOARD THAT:

**THIS IS TO CERTIFY THAT THIS IS A
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN THIS OFFICE.**

SHERRI PHILO

BY: Sherry Philo, D.C.

DATE: August 21, 2012

The violation of Code section 38-31(b)(1), weeds, grass and undergrowth at a height of more than 12 inches throughout the property is deemed corrected as of May 22, 2012.

The violator shall pay the initial and accrued civil penalties of \$13,650.00 and enforcement costs of \$126.85 to the City Clerk within 30 days from the date of this Order, together with all costs of recording the Board's orders in this case and all costs of satisfying the resulting liens and recording such satisfaction and release (currently \$70.50).

DONE AND ORDERED at Vero Beach, Indian River County, Florida this 21st day of August, 2012.

ATTEST:

CODE ENFORCEMENT BOARD

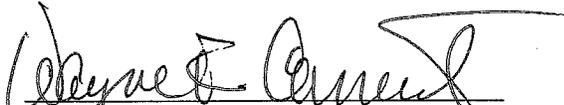


Sherri Philo, Board Clerk



Kirk Noonan, Chairman

Approved as to form and legal sufficiency:



Wayne R. Coment, As Board Attorney

IMPORTANT INFORMATION

Payment of Civil Penalties and Costs: You must contact the City Clerk's Office at 772-978-4700 for the total amount of civil penalties, enforcement costs, recording and other costs required to satisfy this order and lien. Civil penalties and costs may be paid in person at the City Clerk's Office located at City Hall, 1053 20th Place, Vero Beach, Florida 32960, Monday through Friday between 8:30 A.M. and 5:00 P.M., or by mailing a check or money order to said address, payable to "City of Vero Beach." Do not mail cash!

Repeat Violation: Repeat violation of the same Code provision by the violator, even if committed at a different location, can result in the issuance of a code enforcement citation and assessment of increased civil penalties for the repeat offense.

Notice of Right to Appeal Board Decision: You have the right to appeal the Board's order to the Circuit Court in Indian River County, Florida. A written notice of appeal, together with a copy of the order appealed, must be filed with the Clerk of the Code Enforcement Board *and* with the Clerk of the Circuit Court within thirty (30) days after the date of this order or the right to appeal is waived. An appeal is limited to appellate review of the record of the proceedings created before the Code Enforcement Board. See: F.S. 26.012(1); Florida Rules of Appellate Procedure, 9.030(c)(1)(C); 9.110(c).

Superiority of code enforcement lien: A lien is created by operation of law against the real and personal property of the violator upon the recording of a certified copy of a Board Order in the public records. Such lien, and any nuisance abatement lien, are deemed prior in dignity to any other lien, including mortgages, irrespective of the date of the recording of the city's lien or the date of the recording of any mortgage or any other lien on the real property of the violator, and such municipal lien shall survive any action to foreclose or otherwise enforce such inferior lien whether such inferior lien arises by virtue of a mortgage or promissory note, a mechanic's lien, a judgment, or other security interest in such real property. COVB Code sections 2-304 and 2-544; F.S. Chap. 162.



**BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH, FLORIDA
1053 20TH PLACE
VERO BEACH, FLORIDA 32960**

CITY OF VERO BEACH

CASE No.: **11-CE-2498**

vs.

Citation No.: **722D**

Nanny's of Vero Beach, Inc.

2715 Atlantic Boulevard and 3107 Grandflora Drive
Vero Beach, FL 32960 Greenacres, FL 33467

2175403
THIS DOCUMENT HAS BEEN
RECORDED IN THE PUBLIC RECORDS
OF INDIAN RIVER COUNTY FL
BK: 2836 PG: 1223, Page 1 of 3
11/21/2011 at 10:57 AM.

JEFFREY K BARTON, CLERK OF
COURT

**ORDER TO CORRECT VIOLATIONS AND PAY CIVIL PENALTIES
AND COSTS AND IMPOSING CONTINUING PENALTIES FOR NONCOMPLIANCE**

VIOLATIONS: City of Vero Beach Code ("Code") section 38-31(b)(1), weeds, grass and undergrowth at a height of more than 12 inches throughout the property.

LEGAL DESCRIPTION: Parcel #33390300003003000013.0, Block Manor S/D, Blk 3, Lots 13 & 14

VIOLATION ADDRESS: 2715 Atlantic Boulevard, Vero Beach, Florida 32960

The above styled case having come before the Code Enforcement Board of the City of Vero Beach ("Board") on the 9th day of November 2011 on request of the issuing code enforcement officer for a final order to pay civil penalties and costs on continuing violations in this case and the Board having heard the report of the code enforcement officer, on motion made and approve, found that:

1. The citation, notice of assessment, and notice of hearing issued in this case were served as provided by law however the violator failed to respond or appear.
2. The violator did not appeal the issuance of the code enforcement citation or the notice of assessment issued in this case within the time allowed and therefore waived the right to a hearing before the Board to contest the issuance of the citation and to contest the issuance the notice of assessment.
3. The violator's waivers of hearing are deemed an admission of the violations of Code section 38-31(b)(1), weeds, grass and undergrowth over 12 inches as alleged in the code enforcement citation and the amount of the civil penalties and costs assessed in the notice of assessment.
4. The violator has not corrected the aforementioned violations and remains in violation as of the date of this hearing.
5. The violator has not paid the civil penalty assessed on the citation or the continuing penalties and enforcement costs assessed in this case as of the date of this hearing.
6. The City incurred enforcement costs of \$126.85 in this case as previously assessed in the Notice of Assessment and for which the City is entitled to recover, together with all costs of recording the

**THIS IS TO CERTIFY THAT THIS IS A
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN THIS OFFICE.**

SHERRI PHILO

BY: *Sherry Philo*, D.C.

DATE: November 18, 2011

Board's orders in this case and for satisfying the resulting liens, including but not limited to, preparing and recording appropriate lien releases.

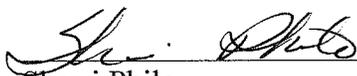
IT IS THEREFORE ORDERED AND ADJUDGED BY THE BOARD THAT:

- A. The violator shall immediately correct the violations of Code section 38-31(b)(1), weeds, grass and undergrowth over 12 inches, by mowing the subject property and thereafter maintaining such weeds, grass, and undergrowth on the property at less than 12 inches in height.
- B. The violator shall pay to the City Clerk within thirty (30) days from the date of this Order, all civil penalties and costs accruing through the date of correction of the violations, consisting of the initial civil penalty of \$50.00 assessed on the citation and enforcement costs of \$126.85, together with the continuing civil penalty of \$50.00 per day for each day the violations remain uncorrected commencing August 24, 2011, as specified in the Notice of Assessment, and costs of recording the Board's orders in this case and satisfying the resulting liens, including but not limited to, preparing and recording appropriate lien releases upon receipt of payment by the City Clerk.

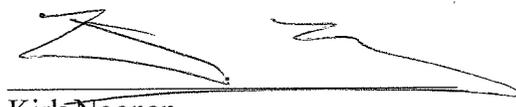
DONE AND ORDERED at Vero Beach, Indian River County, Florida this 18th day of November 2011.

ATTEST:

CODE ENFORCEMENT BOARD



Sherri Philo
As Board Clerk



Kirk Noonan
As Chairman

Approved as to form and legal sufficiency:



Wayne R. Coment
As Board Attorney

IMPORTANT INFORMATION

Correction of Violations: AFTER CORRECTING THE VIOLATIONS YOU MUST NOTIFY THE CODE ENFORCEMENT OFFICER at Telephone (772) 978-4551 or at the Code Enforcement Office, City Hall, 1053 20th Place, Vero Beach, FL 32960, in order to suspend accrual of the continuing civil penalties and to avoid abatement of the violations by the City of Vero Beach and assessment of abatement liens against the subject property.

Payment of Civil Penalties and Costs: You must contact the City Clerk's Office in person or at Telephone (772) 978-4700 to confirm the total amount due for civil penalties, enforcement costs, recording, and other costs required to satisfy this order and all outstanding liens. Civil penalties and costs may be paid in person at the City Clerk's Office located at City Hall, 1053 20th Place, Vero Beach, Florida 32960, Monday through Friday between 8:30 A.M. and 5:00 P.M., or by mailing a check or money order to said address, payable to "City of Vero Beach." Do not mail cash!

Repeat Violation: Repeat violation of the same Code provision by the violators, even if committed at a different location, can result in the issuance of a code enforcement citation, without an opportunity to correct the violation, and assessment of increased civil penalties for the repeat offense. COVB Code section 2-299.

Notice of Right to Appeal Board Decision: The violators or the City may appeal the Board's order to the Circuit Court in Indian River County, Florida. A written notice of appeal, together with a copy of the order appealed, must be filed with the Clerk of the Code Enforcement Board *and* with the Clerk of the Circuit Court within thirty (30) days after the date of this order or the right to appeal is waived. An appeal is limited to appellate review of the record of the proceedings created before the Code Enforcement Board. F.S. 26.012(1); Florida Rules of Appellate Procedure, 9.030(c)(1)(C); 9.110(c).

Superiority of code enforcement lien: A lien is created by operation of law against the real and personal property of the violators upon the recording of a certified copy of a Board Order in the public records. Such lien, and any nuisance abatement lien, are deemed prior in dignity to any other lien, including mortgages, irrespective of the date of the recording of the city's lien or the date of the recording of any mortgage or any other lien on the real property of the violator, and such municipal lien shall survive any action to foreclose or otherwise enforce such inferior lien whether such inferior lien arises by virtue of a mortgage or promissory note, a mechanic's lien, a judgment, or other security interest in such real property. COVB Code sections 2-304 and 2-544; F.S. Chap. 162.