

## **§ 36.29 ENFORCEMENT ORDERS; FINES AND OTHER REMEDIES; RIGHT OF APPEAL.**

(A) (1) The order of the Special Magistrate may require the violator to pay a fine, not to exceed \$1,000 per day, for each day that the violation continues past the date set in the order for compliance. In the case of a repeat violation the Special Magistrate may order the repeat violator to pay a fine not to exceed \$5,000 per day, for each day the repeat violation continues past the date of notice to the violator of the repeat violation. In addition to such fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city enforcing its codes and all costs of repair pursuant to division (C) of this section.

(2) If a finding of violation or repeat violation has been made, then a hearing shall not be necessary for the issuance of an order imposing the fine. However, upon receipt of an Affidavit of Non-Compliance from the Code Inspector, the Clerk shall promptly forward a notice of the failure to comply with the Final Order, along with a copy of the Affidavit of Non-Compliance to the violator by U.S. mail. The notice shall provide the violator 14 days from the date of the notice to file a written request for a hearing to contest the issue of compliance. The notice shall state that the Final Order/Claim of Lien will be recorded after 14 days unless the violator files a timely request for a hearing. Upon receipt of said request, a hearing shall be set before the Special Magistrate at the next available hearing date, with notice of said hearing provided to the violator by regular U.S. mail.

(3) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records of Broward County, Florida; and once recorded, it shall constitute a lien against the property upon which the violation was found to exist, and upon any other real or personal property owned by the violator, and upon petition to the circuit court it shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but shall not be deemed otherwise to be a judgment of the court except for enforcement purposes.

(4) A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose the lien, whichever occurs first.

(5) After three months from the filing of any such unpaid lien, the Special Magistrate may authorize the City Attorney to foreclose upon the lien. The duration and effect of such lien shall be consistent with state law, which is a period of 20 years.

(6) Superiority of lien. Effective June 1, 2009, code enforcement liens shall remain liens, coequal with the liens of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, encumbrances and claims until paid. The priority of the code enforcement liens versus mortgages, liens and encumbrances in existence prior to June 1, 2009, shall be determined upon the date of recording of the lien.

(B) In determining the amount of the fine, if any, the Special Magistrate shall consider the following factors:

- (1) The gravity of the violation;
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator, whether on the same or any other property.

(C) In the event the Special Magistrate believes that a violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in nature, the Special Magistrate shall notify the city, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed by the Special Magistrate. The making of such repairs does not create a continuing obligation on the part of the city to make further repairs or to maintain the property and does not create any liability against the city if such repairs were completed in good faith. The Special Magistrate may request the City Attorney to seek appropriate injunctive relief in the name of the city in the appropriate court.

('72 Code, § 1.5-12(d) - (f))

(D) (1) Every enforcement order of the Special Magistrate shall be final, subject to the right of any aggrieved party, including the city or the violator, to appeal a final administrative order of the Special Magistrate to the Circuit Court of the Seventeenth Judicial Circuit of Florida in and for Broward County, Florida. An appeal shall be filed within 30 days of the rendition of the order to be appealed.

(2) Every enforcement order of the Special Magistrate shall have the force of law, shall be in writing, and shall include findings of fact and conclusions of law. Every enforcement order of the Hollywood Code Enforcement Board issued prior to said Board's elimination shall have the force of law. Every enforcement order issued by a Special Master prior to the adoption of Ord. O-2005-02 shall have the force of law.

(3) Every enforcement order of the Board shall be signed by the Chairperson, or in his/her absence, the Vice-Chairperson, and every order of the Special Magistrate shall be signed by the Special Magistrate. All orders shall be filed in the office of the City Clerk. A copy of the signed order shall be sent by certified mail, return receipt requested or where certified mailing would not be effective, by regular mail or by hand delivery by the Code Inspector to the violator.

(4) The Special Magistrate shall, in every proceeding, make a decision without unreasonable or unnecessary delay, and shall proceed to hear the cases on the agenda for that day.

('72 Code, § 1.5-14)

(E) The provisions and procedures contained in this chapter shall be in addition and supplemental to any other remedies

now existing or subsequently provided for by law, regarding code violations.

('72 Code, § 1.5-20)

(Ord. O-87-68, passed 11-4-87; Am. Ord. O-89-51, passed 8-30-89; Am. Ord. O-88-41, passed 7-20-88; Am. Ord. O-89-15, passed 5-3-89; Am. Ord. O-95-37, passed 7-19-95; Am. Ord. O-96-07, passed 2-28-96; Am. Ord. O-99-46, passed 12-15-99; Am. Ord. O-2005-02, passed 3-2-05; Am. Ord. O-2009-09, passed 5-6-09)