

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
February 19, 2020

Agenda Item:

Consider a lien mitigation request from Racetrac Petroleum, Inc relating to the property at 22350 S Tamiami Trail, located at the corner of U.S. 41 and Galloway Ford Drive, just North of Coconut Point Ford.

Description:

The owner acquired the commercial property at 22350 S Tamiami Trail in 2015. The owner was cited in March, 2017 for window signage exceeding the allowed 30% coverage of the window glass surface area. A hearing was held on August 17, 2017. The owner was not present. The Special Magistrate imposed a fine beginning in October, 2017. A code enforcement lien in the amount of \$188,581.50 has accrued based on 753 days of lien accumulation at \$250 a day (the maximum available under state law).

The owner said they were unaware of any code violations until a newspaper reporter contacted them in October, 2019. The owner has alleged that while notice was provided to Racetrac corporate, such notice was not provided consistent with the requirements of state law. Upon receiving notice of the violation from the press the property was quickly brought into compliance on November 8, 2019.

Pursuant to prior direction of Council, liens in excess of \$100,000 must be approved by the Village Council. The case for fine review was heard by the Special Magistrate on December 19, 2019. The Special Magistrate recommended a mitigation amount of approximately \$75,000.00 or a reduced fine of \$100 per day for the 753 days. Under the Council's prior direction a 10 % for commercial properties reduction would be \$18,858.00.

Statutorily local governments must consider the following factors in determining the amount of a fine: (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. The Village has currently adopted a very low tolerance stance in seeking compliance of our codes. Racetrac has offered to pay a mitigation amount of \$7500.00 which their attorney believes is reasonable under the forgoing factors given the type of violation (not a public health or safety issue). In exchange for the Village's acceptance of this reduced lien amount Racetrac will also not pursue any rights to challenge the underlying case given the potential notice issues. Racetrac has indicated the magistrate's recommendation of \$75,300 is unacceptable and will result in litigation.

Action Requested:

Approve the lien mitigation request releasing any outstanding liens against the Property in exchange for payment of a reduced fine of \$7,500 and \$331.50 for administrative costs.

Financial Impact:

The Village will recover its out-of-pocket costs for the Code Enforcement Case against the Property.

Attachments:

1. Code Enforcement Case Overview
2. Request for Fine Review
3. Special Magistrate Order Finding Violation
4. Special Magistrate Order of Imposition of Fine