



Codes Compliance Assistance Legal Action

Case Start-up

At the initial inspection, the investigator determines whether or not a violation exists and tries to make contact with the tenant and/or property owner at the property. The investigator makes a report of the inspection which is then entered into the computer database. A notice letter is sent to the property owner which details the violations and provides a specific time frame re-inspection of the property to determine if it has been brought into compliance.

Investigators help the owner by answering questions, offering assistance through appropriate programs for those physically or financially unable to comply, and in some cases, granting reasonable extensions of time to achieve compliance. When cases are referred to assistance programs, the investigator monitors the property conditions; but as long as the assistance is in process, enforcement is not pursued.

Since notification to a property owner is required by Florida Statutes for most violations, if a property is sold and violations remain, the process must begin again with notification to the new property owner.

All cases are tracked using the Department's computer database which identifies properties, owners, violations, actions taken to-date, and time frames for next actions.

Enforcement of the City Code

There are three primary enforcement actions available to encourage and achieve compliance. In order to decide the appropriate process, consideration is given to the extent and nature of the violation(s), including any potential health or safety hazards. The primary actions are the Civil Citation process, the Municipal Ordinance Violation (MOV) process and the Code Enforcement Board (CEB) process.

All three processes require the Department to notify the violator/owner that a violation exists, and to provide a reasonable amount of time to comply, unless the violation is a repeat violation or is irreparable. In such cases, a notice of violation is not required. The MOV process is a more formal, judicial process conducted in the County court with stricter rules of evidence and testimony than the CEB process or the Civil Citation process.

Also, while the MOV and Civil Citation processes allow for notice and prosecution of a responsible individual who does not necessarily have to be the property owner, CEB can only order penalties in the form of liens against the property owner. For both County court MOV and CEB legal actions, the codes investigator always brings the charges and testifies to photographs and inspections as an impartial official who has no ties to the neighborhood or the defendant other than the responsibility to enforce City Code. The investigator does the same before a Special Magistrate if a Civil Citation is appealed.

In addition, for cases of unsafe structures, overgrown vegetation or junk and debris on vacant property, where the property owner fails to respond to a violation notice within a specified time,

the City may take actions, such as securing, condemnation, or lot clearing, to correct these violations and assess the property for the cost of the action.

The Civil Citation is a written charging document issued by a Codes Investigator which includes a fine. Typically, a Civil Citation is issued when a violation remains after a notice of violation has been issued and a reasonable cure time has passed. In some cases, such as for a repeat violation or a violation that is irreparable, a Civil Citation may be issued immediately without a notice of violation. Chapter 9 of the City Code establishes the fine amounts for each violation. Fine amounts start at \$40 and max out at \$500. The fine amounts increase for repeat violations. A Civil Citation with a separate fine amount may be issued for each violation at a property.

A Civil Citation may be appealed to a Special Magistrate. Appeals are filed with the City Clerk's office and forwarded to the Codes Compliance Assistance department for processing. Appeal hearings are generally conducted on the fourth Tuesday of each month (due to Holidays in November and December, appeal hearings may be scheduled earlier in those months). At an appeal hearing, testimony and evidence are provided and the Special Magistrate shall determine if the alleged violation existed on the property at the time the violation was noted by the Codes Investigator. If the appeal is denied by the Special Magistrate, a \$50 administrative fee is added to the original fine amount of the Civil Citation which was appealed

Civil Citation Special Magistrate Appeal Hearing

What it is: This is an appeal hearing of a Civil Citation conducted by a Special Magistrate. Testimony and evidence are provided to the Special Magistrate by the Codes Investigator. The appellant may also provide testimony and evidence to the Special Magistrate. At the conclusion of the appeal hearing, the Special Magistrate will uphold or deny the appeal.

How it works: Upon issuance of a Civil Citation, the party that was issued the Civil Citation has 10 days to file an appeal. An appeal is filed through the City Clerk's office and it is forwarded to the Codes Compliance Assistance department. Once an appeal is received by the Codes Compliance Assistance department, the appeal is scheduled for a hearing date and the appellant is notified of the hearing date at least 20 days in advance. Civil Citation Special Magistrate appeal hearings are generally held on the fourth Tuesday of each month.

The municipal ordinance violation (MOV) process is a formal judicial process which can result in payment of fines and costs, ranging from \$63 to \$258 for the first offense. Fines and costs can increase for successive MOVs to as high as \$558 each. If the fine and costs are not paid prior to the misdemeanor court trial, a judge then determines guilt and assesses fines and costs.

The first time a violation is referred to the MOV process, the investigator must clearly identify the violator by name, address, age and description, must document that notification (warning) was sent (usually by mail), and must provide a reasonable opportunity to comply. Following the compliance time, the investigator must witness the violation again, take photographs, and draw up the Notice to Appear. The violator's physical whereabouts must then be determined in order to serve the Notice to Appear. Successive MOVs for the same violation may be served without any other additional notice to the violator.

To prosecute just one MOV takes, on average, the equivalent of an entire work day for the codes investigator to gather evidence, prepare the documents, prepare for trial, and appear in court. This estimate does not take into consideration whatever time is invested in the earlier case development/inspections, time invested by the legal department, or time required for support staff to type documents, transmit the complaints for service and to the court, coordinate appointments with the legal department and the court, and the cost of the actual process service. Because this is a more labor and resource intensive process than CEB or Civil Citation, it is usually reserved for more serious or resistant cases.

The MOV works particularly well to address violations that are not continuous but that keep coming back (such as front yard parking), since an MOV may be processed and a potential fine may be imposed for any day a violation exists. Many property owners react quickly to MOVs because outcomes are limited and undesirable. The MOV defendant must pay the fine or appear before a county judge, and can suffer additional MOVs for failure to comply.

For both Code Enforcement Board and County Court legal actions, the codes investigator always brings the charges and testifies to photographs and inspections as an impartial official who has no ties to the neighborhood or the defendant other than the responsibility to enforce City code. In most cases, prior to serving the MOV Notice to Appear, the City's prosecutor reviews and signs the Notice to confirm that it represents a valid charge which will be prosecuted to conclusion.

Once served, the MOV defendant/violator is responsible to enter a plea with the county court. If the defendant/violator enters a plea of *guilty* or *no contest* and pays the fine and costs within 30 days of issuance, it satisfies the court obligation for that MOV document. If the defendant/violator chooses to contest the charges, they must appear at the specified arraignment date and time to enter a *not guilty* plea, or be represented by an attorney. A trial date is set following the arraignment. At trial, judges are not bound to the prescribed MOV fine amounts, but can order higher or lower fine amounts.

The Code Enforcement Board (CEB) process was created and is operated pursuant to Florida Statutes Chapter 162 and local ordinance. During evidentiary hearings, the CEB is responsible to hear testimony from the City and property owners about code violations involving privately owned property. The CEB evaluates evidence and testimony to determine whether violations exist, decides how much compliance time to allow, and also orders per diem fines which can result in liens against property for failure to comply by the ordered deadline. If the property owner fails to comply by the CEB's previously ordered compliance date, the CEB will hear the same case to consider lien certification at a later date. These lien certification hearings are an opportunity for property owners to appear again and request additional time without penalty to correct violations. The CEB has the power to defer lien certification so that the property owner can correct violations without penalty, but also has the power to certify liens against property for failure to correct violations. Further, the CEB makes decisions about whether liens certified at previous hearings should be reconsidered, reduced or released entirely. Generally, liens are eligible for reconsideration once the violations have all been corrected.

CEB meeting dates are generally the fourth Wednesday each month (Due to holidays in November and December, meeting dates may be scheduled earlier in those months.) Meetings begin at 8:30 a.m. and (with rare exceptions) are conducted at City Hall Council Chambers at 175 5th Street North in St. Petersburg.

In evidentiary cases, if a case is closed due to compliance or the property ownership changes prior to the CEB meeting date, the case is removed from the agenda. Staff may also remove cases from the agenda for other reasons, such as the owner applying for an assistance program. Following the meeting, the "Order of the Board" is sent to the owner via certified mail. (See "Evidentiary Hearing - How It Works", below.)

Cases may be deferred from the lien certification agenda based on criteria adopted by the CEB. (See "Lien Certification - How It Works", below.) The CEB has the option to certify a lien and for each lien certified, an "Order Imposing Lien" is sent to the property owner via certified mail.

Although the evidentiary agenda must be conducted as a public hearing, there is no requirement to hold a public hearing to certify, reduce or release liens.

CEB Evidentiary Hearing

What it is: This is the first appearance of a case before the CEB, and the only required public hearing in the process. At the hearing, the CEB reviews testimony and evidence to determine whether code violation(s) exist and whether the property owner has corrected the code violations as cited by the City.

Based upon this review, the CEB issues an order that usually includes findings of a violation, a compliance timeframe, and a fine to accrue for each day the property remains in violation after the compliance date.

How it works: At the monthly CEB meeting, cases are heard in the order established when owners/agents check in with staff. When the CEB chair calls the case, the codes investigator presents his or her testimony from a prepared fact sheet. The owner is then invited to provide his or her testimony or position.

The CEB may consider relevant facts including photographs and expert testimony.

The CEB issues an order which includes a time frame for compliance and a daily fine, and is typically based on staff recommendations. The recommended timeframe for compliance is influenced by two things: the time reasonably required to correct the violation, and the adverse impact of the violation. For example, violations involving inoperative motor vehicles or junk and rubbish require less time and financial investment to correct, and the recommended compliance time frame is typically 15 days. Violations such as peeling paint or roof disrepair may require greater time and financial investment to correct, and typically the compliance time frame is 25-30 days. The recommended daily fine amount is usually between \$50 and \$250 and is based on two things:

1. The severity of the violation (higher fine for life safety violations), and
2. Whether the property is owner occupied (lower fine) or commercial.

CEB Lien Certification Hearing

What it is: A case is entered on this agenda only after it has been heard by the CEB on the evidentiary agenda. The purpose of the lien certification meeting is for the CEB to review cases which have not been brought into compliance within the time frame ordered by the CEB at the evidentiary hearing, and to determine which liens should be certified. For cases where a lien is certified, an Order Imposing Lien is sent to the owner and the lien is recorded in the Pinellas County public records.

How it works: Properties that remain in violation at the completion of the ordered compliance time frame are scheduled for the next available lien certification agenda of the CEB. To compute a lien, the amount of the daily fine is multiplied by the number of days (counted to include the day after the compliance date through and including the certification meeting date). For example, a lien of \$250 is recommended for a case with a fine of \$50 per day for which 5 days have elapsed between the compliance date and the CEB lien certification meeting date. Usually, for residential owner-occupied property, if the total for a case exceeds \$5000 in one or more certified liens, other enforcement methods (MOV) are then pursued. For other types of property, liens will often accrue and be certified in the \$10,000 range before other enforcement methods are pursued.

To facilitate the process, a set of criteria (included in the Department's written policies) the CEB would normally use to order a deferral of lien certification, has been developed.. If a case meets any one of the following criteria, as of the day of the lien certification meeting, staff is authorized to recommend a 25-day deferral.

The criteria are:

- the owner has applied for an assistance program which will resolve the violations

- the owner has applied for or obtained a permit which addresses the violations, and there is reasonable ongoing work in progress toward resolving the violations
- staff can verify that the owner has applied to the Board of Adjustment, or has active court action affecting the owner's ability to achieve compliance
- a serious physical disability or medical emergency of one individual person has had a significant impact on progress toward resolving the violations

Before making such a recommendation, the investigator evaluates whether anyone's safety could be compromised by delaying lien certification.

Lien certification cases are heard in the order established when the owner/agent checks in with staff on the meeting day. The codes investigator presents testimony from a prepared fact sheet. The owner/agent is then invited to provide their comments. This session is not a public hearing. After listening to relevant testimony, the CEB may certify a lien of any amount, up to the value stated on the agenda (determined by the prior order of CEB). The CEB may defer certification of the lien by allowing for some new specific deferral time during which the property owner is able to work on correcting the violations. If violations are not corrected, deferred cases are placed on the next available lien certification agenda which follows the new deferral date. There is no limit to the amount of time provided in a deferral, or the numbers of deferrals that can be ordered by the CEB for any one case.

CEB Lien Release Hearing

What it is: This agenda allows individuals to request the CEB to reduce or release a certified lien.

The individual requesting the release must be the owner or authorized agent of the property for which the lien was certified. The individual requesting release may have had nothing to do with the violation or lien history, but may have acquired the property after the lien was certified, or may have acquired other property from the same owner to whom the lien attached. Based on a report provided by staff, and through questioning the person requesting the lien release, the CEB determines to what extent, if any, a lien should be reconsidered.

The CEB have developed criteria to evaluate lien release requests, as part of the Rules of Procedure. The CEB may leave the lien in place, release it entirely, release a specified property from the lien, or release the lien in consideration of payment of a certain amount of money in a specified period of time.

How it works: At the monthly CEB meeting, lien release requests are heard in the later morning session, which begins on or after 10:30 a.m. Depending upon the length of the first agenda, subsequent lien release hearings may not start until the afternoon. Requests are heard in the order applicants check in with staff.

Although there is no requirement to hear this type of case, the City Council has authorized the CEB to do so as a courtesy allowed by Florida Statutes. The CEB has a maximum agenda of 12 lien release cases per month. Completed lien release requests must be received in the Department office by the close of the business day two weeks prior to the meeting date.

If the individual requesting the lien release fails to appear at the scheduled meeting, the CEB takes no action on the requests and the applicant will not be afforded a chance to be scheduled for a hearing again until six months has elapsed. By City ordinance, there is a \$50 application fee for a property owner and a \$100 fee for an application submitted by a non-owner. All subsequent applications for the same property are \$100.

CEB Administrative Procedures

Agenda Preparation The CEB evidentiary and lien certification agendas are prepared in advance and can be reviewed 2-3 weeks prior to the meeting; however, cases will continue to be removed from the agendas, right up until the actual CEB hearings commence. As noted above, cases are removed from the agenda due to a variety of reasons. The agendas can be reviewed in-person in the office of Codes Compliance Assistance or online at www.stpete.org/codes.htm. Information about the status of any case is available from the Department by telephone at (727) 893-7373.

Public Comments For all three case types (evidentiary, lien certification, and lien release), the presence or absence of the property owner at the meeting determines how the case is handled at the meeting. The CEB may take public comments on any case on its evidentiary agenda. The evidentiary hearing has a higher standard for testimony because it is a quasi-judicial hearing and only factual testimony which is relevant to the cited violations can be considered by the CEB. At the lien certification and release sessions, public comment is taken at the CEB's discretion. The lien certification and lien release forums are not required hearings, and this allows the CEB to consider a wider range of information. An individual wishing to provide comment to the CEB on any case may submit a letter addressed to the CEB by delivery to the Department prior to the hearing. Individuals wishing to provide comment on an individual case may also attend a meeting and identify themselves to the meeting facilitator. The facilitator will note the case(s) the individual wishes to speak to, and should the case(s) be presented, the facilitator will advise the CEB. Should a case not be presented then public comments will not be taken.

Advance Distribution of Materials to the CEB The agenda package for a regular meeting will normally be distributed to the CEB by first class mail, or otherwise, on Tuesday (seven calendar days) before the meeting date. Materials from the Codes Compliance Director, City Attorney, or City Administration may be distributed on a different date when warranted by the circumstances.

A person wishing to submit letters, memoranda, drawings, or other materials relevant to an item of business before the CEB may have such materials distributed with the agenda package if such person:

- Prepares sufficient copies (eleven (11) copies for the CEB) of such materials, sorted and stapled or otherwise bound, with the property address and/or case number conspicuous on the top page. City employees shall have no duty to copy, sort, and staple or bind materials not originating from the Codes Compliance office.
- Delivers the appropriate number of complete copies of such materials to the Codes Compliance office not later than Monday of the week before the meeting (that is, eight calendar days before the meeting).
- Pays the City the additional postage for the extra weight for each copy of the agenda package mailed, if one complete copy of such materials is heavier than two (2) ounces.

A person who misses the deadline for distribution of materials with the agenda package may bring such materials to the hearing and present them to the CEB during the hearing of the item of business.

Such materials shall be retained by the Recording Secretary as part of the case file.

Municipal Services Center Building
One 4th Street North – 3rd Floor
St. Petersburg, FL 33701
727-893-7373

