

**CITY OF DELAND, FLORIDA  
REQUEST FOR COMMISSION ACTION**

July 19, 2010

<b>Department: Community Development</b>	<b>Attachments:</b>
<b>Subject: Resolution Levying a Municipal Special Assessment Lien for Services 117 W. Howry Avenue</b>	<input checked="" type="checkbox"/> Resolution <input checked="" type="checkbox"/> Invoice
<b>Prepared by: Matt Adair, Chief Building Official</b>  <i>Matt Adair</i>	<b>Approved by:</b>  <i>Mitchell Pleus</i>
<b>Department Head</b>	<b>City Manager</b>

**SUMMARY/HIGHLIGHT:**

Primary enforcement for lot maintenance is conducted through the Special Magistrate process and should that fail to bring about compliance City staff may abate the nuisance through an alternative method of enforcement. The cost for abating the nuisance on each lot, plus an amount equal to such cost to defray administrative and operating expenses for abating the nuisance on each lot shall be calculated and reported by the enforcement official to the City Commission. The City Commission, by Resolution, shall levy a special assessment lien in the amount of such cost plus the administrative expense against such lot or lots.

**STRATEGIC PLAN FOCUS AREA/ACTION STEP:**

The action step "Implement stronger code enforcement for residential areas" under the strategic focus area of creating the connected community is supported by implementing a lot maintenance and nuisance abatement program.

**FISCAL IMPACT:**

On October 15, 2009, The City of DeLand received payment of an outstanding Code Enforcement Lien in the amount of \$60,250. On November 2, 2009, the City Commission approved an amount of \$30,000 of these funds to be used for lot maintenance and nuisance abatement.

**RECOMMENDATION:**

It is recommended that the City Commission adopt the Resolution levying a Municipal Special Assessment Lien for services provided at 117 W. Howry Avenue in the amount of \$421.

**CONSENT NO. 5**

**Subject: Resolution Levying a Municipal Special Assessment Lien for Services 117 W. Howry Avenue**

**BACKGROUND/DISCUSSION:**

Primary enforcement for lot maintenance is conducted through the Special Magistrate process and should that fail to bring about compliance City staff may abate the nuisance through an alternative method of enforcement. The cost for abating the nuisance on each lot, plus an amount equal to such cost to defray administrative and operating expenses for abating the nuisance on each lot shall be calculated and reported by the enforcement official to the City Commission. The City Commission, by Resolution, shall levy a special assessment lien in the amount of such cost plus the administrative expense against such lot or lots.

A violation notice was posted at 117 W. Howry Avenue on June 23, 2010. A Notice of Violation, with a compliance date of July 14, 2010 was sent via certified mail on June 23, 2010 and was returned as non-deliverable. The Notice advised the owner that an alternative method of enforcement to abate the nuisance would be pursued by the City of DeLand and provided for a fifteen (15) day appeal process. A diligent search for the owner was conducted by staff but an owner or representative could not be located. The alternative method of enforcement to abate the nuisance was used in order to bring the property into compliance.

Staff identified 117 W. Howry Avenue as a priority due to the number of complaints received and the proximity of this property to Historic Downtown DeLand. This property was previously abated on December 3, 2009 in the amount of \$700 and a Resolution levying a special assessment tax lien was approved by the DeLand City Commission on January 20, 2010. The City is not required to abate a nuisance more than two (2) times annually per ordinance. This property is currently in foreclosure.

On July 15, 2010, staff authorized the contractor to enter the property and abate the nuisance. The contractor received payment of \$325 for this service rendered. Administrative costs total \$96. Total amount to be levied against the property is \$421. An invoice in the amount of \$421 was sent certified mail to the owner on July 15, 2010 and to date payment has not been received.

**RESOLUTION NO. 2010 -**

**A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA,  
LEVYING A MUNICIPAL SPECIAL ASSESSMENT LIEN FOR  
SERVICES PROVIDED TO REAL PROPERTY LOCATED AT 117 W.  
HOWRY AVENUE; PROVIDING FOR SEVERABILITY AND AN  
EFFECTIVE DATE**

**WHEREAS**, Realty R Us., a dissolved Florida corporation, with a mailing address of 117 W. Howry Avenue, DeLand, FL, is the record owner of the real property located at 117 W. Howry Avenue, Volusia County, Florida, Tax Parcel Identification Number 7016-01-03-0091; and

**WHEREAS**, pursuant to Section 16-30 "Lot Maintenance" of the Code of Ordinances of the City of DeLand, activities relating to lot clearing occurred on said property on July 15th, 2010; and

**WHEREAS**, appropriate notice was provided to the property owner in accordance with the controlling provisions of law and no action or inadequate action was taken on said property within the time allotted; and

**WHEREAS**, the City of DeLand abated the nuisance at 117 W. Howry Avenue by performing lot maintenance on July 15th, 2010, at a cost to the public and in a manner which specially benefited the subject property; and

**WHEREAS**, pursuant to the controlling provisions of law, the City of DeLand has calculated and invoiced the costs of lot maintenance and administrative charges payable to the City and sent, by certified mail, a copy of the invoice to the property owner on July 15, 2010; and

**WHEREAS**, the invoice was not paid as of the date of consideration of this municipal special assessment lien; and

**WHEREAS**, the City of DeLand finds and determines all conditions precedent to the levying of this municipal special assessment lien on the subject real property have been accomplished and that the sums assessed are fair, equitable, equalized and attributable to the special benefit deriving to the subject property and its owner.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF DELAND, FLORIDA:**

**Section 1.** The City Commission hereby approves a municipal special assessment lien for services rendered in the amount of \$325.00 for the costs lot maintenance and \$96.00 for administrative charges; for a total of \$421.00 to be levied against the following real property located in DeLand, Volusia County, Florida. All unpaid sums shall bear interest at the rate of 12% per annum until paid.

**See legal description attached hereto as Exhibit A.**

**Tax Parcel Identification No. 7016-01-03-0091**

**Section 2.** If any section, sentence, clause or phrase of this resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the remaining portions of this Resolution.

**Section 3.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND DULY ADOPTED** this \_\_\_\_\_ day of July, 2010.

\_\_\_\_\_  
Robert F. Apgar  
Mayor - Commissioner

**ATTEST:**

\_\_\_\_\_  
Julie A. Hennessy  
City Clerk-Auditor

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Darren J. Elkind  
City Attorney

**Exhibit "A"**

**LEGAL DESCRIPTION**

SW 1/4 OF LOT 9 BLK 3 HOWRYS ADD DELAND PER OR 5096 PG 2501 PER OR 5718 PGS 3838-3839 INC PER OR 5753 PG 3308 D/C 57

Tax ID No 7016-01-03-0091  
117 W. Howry  
DeLand FL 32720



# City of DeLand

"The Athens of Florida"  
www.deland.org

July 15th, 2010

Realty R Us  
117 W. Howry Avenue  
DeLand, FL 32720

Re; Invoice for lot maintenance and administrative costs, Tax Parcel ID 7016-01-03-0091  
117 W. Howry Avenue, DeLand, Fl

To whom it may concern,

Please find enclosed a copy of an invoice from King's Services for lot maintenance abatement that took place on the above listed property on July 15th, 2010. In addition to the lot maintenance service charge of \$325.00, you are also responsible for administrative costs totaling \$96.00, which brings the total amount due to \$421.00. You shall have until 5:00 P.M., July 19, 2010 to render payment to the City of DeLand for the above charges.

In the event that payment is not made The City of DeLand may levy a municipal special assessment lien against Tax Parcel ID 7016-01-03-0091. All unpaid sums shall bear interest at a rate of 12% per annum until paid.

Should you have any questions, I may be reached at (386) 626-7038.

Sincerely,

Matt Adair  
Chief Building Official

Certified Mail 7009 1410 0000 9907 4029

117 Howell Ave

**King's Services**  
**614 E. Highland Ave.**  
**DeLand, Florida 32724**  
**Telephone: 386-736-0661**



Mowing	✓			
Weed Eating	✓			
Trimming				
Mulching				
Hauling				
Demolishing				
BobCat Work				
Dumping Cost	✓			
Miscellaneous				
Total Cost		325		

Curtis Gels  
Owners Signature  
Date 6/14/10

\_\_\_\_\_  
Customer Signature  
Date \_\_\_\_\_