

ENB-12.07 - Lien Reduction Case Review Process (BDS)

LIEN REDUCTION CASE REVIEW PROCESS (BDS)

*Administrative Rule
Adopted by Bureau
of Development
Services Pursuant to
Rule Making Authority
ARB-ENB-12.07*

[Link to PDF copy of document](#) (88 KB)

PURPOSE

Lien Reduction Case Review Process

The overall goal of the Bureau of Development Services' enforcement program is to assist customers with gaining compliance with applicable codes where violations have occurred. The assessment of monthly code enforcement fees are imposed in most cases as a last resort and are intended to create incentives for property owners to correct their code violation case(s). However, when property owners ignore the City's request for compliance or are unable to address the code violations at their property, enforcement penalties can accumulate rapidly. This may result in a large lien on the property.

The number of requests for lien reduction received from property owners has increased in recent years particularly since the Auditor's Office began a foreclosure process to collect unpaid city liens on February 5, 2003. Property owners faced with the possibility of losing their property have turned to the Commissioner's Office and the Bureau of Development Services for assistance with resolving their code enforcement liens.

Based on the review of several hundred liens during the first phase of the foreclosure process, the Bureau of Development Services recognizes the need to have lien reduction criteria in place for reviewing a variety of cases to provide relevant and consistent outcomes. The following code enforcement thresholds and lien reduction criteria have been developed by Commissioner Leonard's Office and the Bureau of Development Services and recorded with the City Auditor's Office for application during the lien reduction review process.

POLICY

Maximum Code Enforcement Fees

Fees will accrue at the regular rate until the point at which the property returns to compliance with applicable codes and the violation case is closed.

If all violation cases on the property are closed and the violations corrected, upon request or based on an internal review the existing lien balances will be reduced to an amount not to exceed those noted below. The maximum code enforcement fees are per City Title for all enforcement cases that have accrued on a site since the time of purchase.

Property owners benefiting from reduction of outstanding code enforcement liens at time of purchase do not qualify for reductions to the maximum code enforcement fees listed below.

If applied, the code enforcement fee maximums are for all enforcement cases per City Title since the date of purchase. Nuisance and Dangerous Building abatements are considered separately.

These maximums are contingent upon payment arrangements being made on the reduced balance.

In cases involving repeat offenders or chronic nuisance properties, the BDS Case Review Committee will rule on whether reduction to the maximums outlined below will be applied, and reserves the right to cap.

Property Usage	Maximum Code Enforcement Fee (including interest, penalty & principle)
Owner occupied Single family (1-2 units)	\$6,500
Income generating property Single family (1-2 units)	\$10,000
Income generating property Multi-family (3+ units)	\$5,000 per unit
Vacant Lots	\$5,000
Vacant Commercial / Residential Buildings	\$10,000
Commercial occupied property 3,000 square feet or less	\$5,000
Commercial occupied property Over 3,000 square feet	\$10,000

Definition – Case/Lien type	Maximum Charges
Nuisance abatement	Fines remain as assessed. Maximum overhead charge of \$1,000
Vacation orders Dangerous building abatement	Hard costs and administrative costs

Lien Reduction Criteria

Reasons	Up to 100% Reduction	Up to 50% Reduction	NO Reduction
Financial/ Physical Hardship	<p>Documented medical/financial hardship prevented property owner from reaching compliance in a timely manner. (i.e. life threatening, terminal or mental illness; natural disaster; victim of fraud)</p> <p>Property is owner occupied or vacant. Life/safety issues not a factor. Evidence of reasonable effort to comply based on circumstances.</p> <p>Waive 100% of fees for the period of documented temporary medical/ financial hardship, which prevented property owner from reaching compliance in a timely manner. (i.e. job loss, stroke or heart attack, dependent care)</p>		

Low-Income Waiver	Waive liens for low-income property owners where the total household income is equal to or less than 80% of median. Property is owner occupied or vacant. From time when progress was made to comply. No significant fire/life/safety issues exist.		
Consistent Payments	Apply payments to principle and waive interest when consistent payments have been made for approximately 2 years to satisfy lien.		
Multiple cases-same violation	There are multiple assessments and/or cases for the same or similar types of violations (close most recent case).		
Lapse of contact	Records indicate that contact with the property owner lapsed for more than 1 year while the case was open. Waive charges during the period of lapse.		
Error in Notification/ Citation	Administrative error in notifications required by code. Violations cited in error. Lack of clear communication about requirements to resolve the case.		
Evidence of Progress		No significant Fire/Life/Safety violations. Case closed within 2 years; no additional valid complaints or abatements at property. Evidence of progress to correct violations. Vacated property when problems identified.	Significant fire/life/safety violations. Occupied rental property. Lack of progress to correct violations in a timely manner.

Reasons	Up to 100% Reduction	Up to 50% Reduction	NO Reduction
Hearings Officer Penalties			Civil penalties imposed by the Hearings Officer will not be reduced.
Hearings Officer Filing Fee Only	Waive lien for Hearings Officer filing fee when this is the only lien (no civil penalty resulted).		
Delay in Process	Delays in the LUR, building permit process or other delays that were beyond the applicant's control. Waive charges during the period of delay.		

Nuisance Civil Fine	Documented evidence of progress on corrections prior to abatement. Evidence that notices were not received (but property was not maintained sufficiently so administrative and hard costs remain). Evidence of sale during the process and new owner was not notified.		
Nuisance Abatement Charges	Waive civil fine, overhead and up to \$1,000 of hard costs if: Documented medical/financial hardship prevented property owner from reaching compliance in a timely manner. (i.e. life threatening, terminal or mental illness, natural disaster, victim of fraud). Property is owner occupied or vacant Life/safety issues not a factor Evidence of reasonable effort to comply based on circumstances If remaining hard costs exceed \$1,000 the case will be reviewed by Consolidated Committee for decision		
Minor Violations	Original violations cited do not meet current criteria for opening a case (violations too minor, garbage service but no nuisance conditions, etc.).		
Interest	If no other basis for reduction identified, offer to waive interest if payment arrangements made within 30 days (may be partial or full interest waived depending on property/case history).		

Requesting Lien Reductions

All BDS enforcement cases related to subject property, including the case in question, should be closed. Exceptions will be made when necessary.

The request should be in writing and signed by the property owner or their representative. Exceptions will be made when necessary.

Request should include property address, case number, reason for request and contact information.

Processing Requests

1. Apply current policies and procedures to closed cases when possible and appropriate.
2. Determine if property owner qualifies for existing waivers (i.e. low-income, new owner, renovation, administrative, etc.) and apply when possible. Waivers may be applied retroactively if necessary.
3. Apply lien reduction criteria (see pg. 3/4).
4. Apply maximum fee thresholds if appropriate (see pg. 2).
5. If possible, decisions will be reached within 30 days of receipt of request for non-foreclosure cases; 45 days

for foreclosure cases. A written decision will be sent to the property owner or representative and attached in TRACS.

6. Property owners or representatives will be allowed one lien reduction review per case. Once an offer is made, no more than two extensions to meet requirements of offer will be granted. Repeat offenders are not eligible for additional reviews and/or reductions unless approved by the Management Case Review Committee.

7. If the BDS Case Review Committee determines that unique circumstances exist, or its rulings are appealed, then the request shall be reviewed by the Management Case Review Committee (see below).

8. If the Management Case Review Committee determines that unique circumstances exist, or its rulings are appealed, then the request shall be reviewed by the Commissioner's Office (see below).

HISTORY

Revised document dated February 15, 2006.
Filed for inclusion in PPD February 21, 2006.
Amended in PPD November 22, 2006.