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APR 11 2025
City of Flagler Beach

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April 2, 2025

Via Email and Certified Mail & Federal Express

Certified Article Number

9414 7266 9904 2239 1732 08

(Being re-sent in case earlier version was not signed)

SENDER'S RECORD

City of Flagler Beach City Commission
105 South 2nd Street
P.O. Box 70
Flagler Beach, FL 32136

Penny Overstreet
City Clerk
poverstreet@cityofflaglerbeach.com

RE: *City of Flagler Beach v. Butler & Butler Properties, Inc.*
Code Enforcement Case No.: EEN 23-0011 re 3590 S Ocean Shore Blvd
Petition for Reduction of Lien

Dear Madam Mayor and City Commissioners:

The firm of Foley & Lardner LLP represents Sachem Capital Corp. ("Sachem"), the successor in interest to Butler & Butler Properties, Inc. and the current owner of the property located at 3590 S. Ocean Shore Blvd, Flagler Beach, Florida 32136 (the "Property") regarding the above-referenced matter.

As you are well aware, on August 28, 2023, Code Enforcement Magistrate Popp entered a Findings of Fact, Conclusions of Law, and Order finding that the Property was in violation of Chapter 13 of the City of Flagler Beach Code of Ordinances due to unsafe and unsightly conditions caused by incomplete construction work at the Property, and imposing a fine of \$250 per day running from July 6, 2023 until compliance was achieved, which also operated as a lien against the Property upon recordation (the "Lien") (Instrument No. 2023038531 Bk: 2809 Pg: 803). At the time the Lien was recorded, Butler & Butler Properties, Inc. ("Butler") was the owner of the Property and Sachem was merely Butler's lender with no right or ability to correct the code enforcement issues at the Property.

In September 2022, Butler defaulted on its loan and Sachem initiated mortgage foreclosure against Butler in the case styled *Sachem Capital Corp. v. Butler & Butler Properties, LLC, et al.*, Case No. 2023-CA-000609. That litigation ultimately resulted in the entry of an August 15, 2024 Final Summary Judgment granting foreclosure in Sachem's favor, who then took title to the property on October 29, 2024. Until it took title to the Property, Sachem had no right or ability to alter the Property in any way or otherwise address the code compliance issues caused by the incomplete construction.

After Sachem took title to the Property, it acted swiftly to address the code enforcement issues at the Property. Less than three months later in January 2025, Sachem had obtained a Notice of Commencement and appropriate permits to demolish the incomplete construction and bring the Property into compliance. During that time Sachem also resolved another Claim of Lien recorded against the Property (Instrument No. 2024014934, Bk: 2860 Pg: 1110) based on Butler's failure to pay certain water, sewer, stormwater and garbage charges. As of March 12, 2025, the demolition work at the Property has been completed and City officials have determined the Property is in compliance with the City of Flagler Beach Code of Ordinances.

Sachem calculates the Lien to be \$153,750 (calculated at \$250 per day for 615 days from the original July 6, 2023 compliance deadline through the date of the City's confirmation of code compliance on March 12, 2025). However, imposition of the Lien at that amount would be manifestly unjust and unfair to Sachem, which did everything in its power to bring the Property into compliance and resolve significant and valid concerns regarding safety and unsightliness as quickly as possible. Indeed, barely more than four months elapsed between Sachem taking title to the Property on October 29, 2024 and the compliance date of March 12, 2025. Given Sachem's good faith in resolving this matter, but while also recognizing the significant frustration and disturbance this matter has caused to the City and its residents, Sachem respectfully requests that the City Commission grant leniency and agree to a fine of \$1,000 to resolve the Lien against the Property. Assuming the City Commission agrees, Sachem will commit to remit payment to the City within 30 days.

We look forward to presenting Sachem's case at the next City Commission meeting on April 24, 2025 and finally putting an end to this matter. Thank you.

Sincerely,

Foley & Lardner LLP



Mark J. Wolfson

MJW

CC: Drew Smith, Esq.
City Attorney
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