

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR
PALM BEACH COUNTY.

CASE NO: 502019CA008660XXXXMB AI

CLASS REPRESENTATION

B. & B. PROPERTIES, INC., a Florida
corporation and on behalf of all others
similarly situated,

Plaintiff,

v.

PALM BEACH COUNTY,

Defendant.

_____ /

SECOND NOTICE OF PENDENCY OF CLASS ACTION

**TO: All persons in the state of Florida who have or presently
have a code enforcement lien on their property or properties in
Palm Beach County which include the following:**

- a. Property owners against whose property the County imposed code enforcement liens beginning on January 1, 2005, that included interest or collection costs and where said lien continued to encumber the property on or after July 3, 2015.
- b. Property owners who received an Order Imposing Fine/Lien beginning on January 1, 2005, and paid the full daily fine amount and interest or collection agency fees on or after July 3, 2015, and against whom no court proceedings were brought.

- c. Property owners against whose property the County imposed code enforcement liens beginning January 1, 2005, which liens remained on their property on and after July 3, 2015, and who were charged compounding interest to the date of compliance and thereafter charged interest on both that sum plus the accumulated daily fine amount.
- d. Property owners on whose property the County imposed code enforcement liens beginning on January 1, 2005, which liens remained on the property on or after July 3, 2015, and who were charged interest amounts, due to the County's practice of treating Special Magistrate Orders Imposing Fine/Lien as a judgment from a court of law and then calculating the time periods for calculating its claim for prejudgment interest.
- e. Property owners against whose property the County imposed code enforcement liens beginning January 1, 2005, which liens remained on their property on or after July 3, 2015, and who were charged or paid collection agency fees after July 3, 2015, or where said fees were in excess of what was paid by the County or before the County paid the collection agency fees.
- f. Property owners against whose property the County imposed code enforcement liens beginning January 1, 2005, which liens remained on their property on or after July 3, 2015, and who were not given an opportunity to seek modification or reduction of the amounts charged for interest or collection agency fees before an impartial magistrate after their code enforcement lien was referred to the OFMB.

This Notice is given pursuant to Rule 1.220 of the Florida Rules of Civil Procedure and by Order of the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida. The purpose of this Notice is to inform you of a class action lawsuit, now pending in this Court, that has been brought on behalf of all persons referenced above

who have had or presently have a code enforcement lien placed on their property or properties by Palm Beach County, and who fall within the time limits stated above.

THE LITIGATION

The Complaint alleges that PALM BEACH COUNTY has violated a number of state statutes, and the County ordinance governing code enforcement liens, regarding the County's policy and practices relating to interest charges, and collection agency fees as part of the code enforcement liens. The Complaint also alleges that the County has violated the Due Process Clause of the Fourteenth Amendment to the United States Constitution by not allowing an appropriate modification hearing once the lien has been referred to the Office of Financial Management and Budget and violated the Excessive Fines Clause of the Eighth and Fourteenth Amendments to the United States Constitution by imposing interest charges and collection fees that were not permitted by Florida law.

PLAINTIFF CLASS

By Order dated October 12, 2022, (D.E. 243) and Second Amended Corrected Order dated November 29, 2022 (D.E. 256), the Court certified the Class and has designated as Class Plaintiff, B&B PROPERTIES, INC. The Court's Order certifying the class was affirmed by the Fourth District Court of Appeal on August 31, 2023.

CERTIFICATION BY THE COURT OF THIS CLASS DOES NOT MEAN THAT ANY RELIEF WILL BE OBTAINED FOR CLASS MEMBERS, BECAUSE THE ISSUES ARE CONTESTED AND HAVE NOT BEEN DECIDED. RATHER, THE CLASS ACTION RULING MEANS THAT THE ULTIMATE OUTCOME OF THIS LAWSUIT - WHETHER FAVORABLE TO PLAINTIFFS OR TO DEFENDANT - WILL APPLY IN A LIKE MANNER TO ALL CLASS MEMBERS. CLASS MEMBERS WHO DO NOT TIMELY ELECT TO BE EXCLUDED FROM THE CLASS WILL BE BOUND BY THE OUTCOME OF THIS LITIGATION, WHETHER THAT OUTCOME IS FAVORABLE OR UNFAVORABLE TO THE CLASS.

DEFENDANT

Defendant is PALM BEACH COUNTY.

RELIEF SOUGHT FOR CLASS MEMBERS

- a. Refund of interest and collection agency fees to those who paid the full daily fine amount, plus interest and/or collection agency fees.
- b. Enjoining the County from charging interest and collection agency fees as to all code enforcement liens recorded against class members' properties, absent the initiation of a lawsuit seeking to foreclose the code enforcement lien.

ELECTION BY CLASS MEMBERS

Even though you may be a member of the Class, you may choose whether or not to remain a class member. Your choice will have certain consequences.

If you wish to remain a member of the class, and be part of any potential recovery, and be bound by the outcome of this litigation, then you do not need to do anything at this time. You will be included in the class automatically. By remaining a class member any claims against Palm Beach County as alleged in the Complaint will be determined in this case and cannot be presented by you in any other lawsuit.

If you **do not** wish to remain a member of the class or classes, you must submit the enclosed Request for Exclusion form **postmarked no later than April 1, 2024**. It must specify your name, address, and telephone number; and a clear statement that you wish to be excluded from the Class. Your Request for Exclusion should be mailed, first-class, to:

LOUIS M. SILBER, ESQUIRE
SILBER & DAVIS
501 S. Flagler Drive, Suite 306

West Palm Beach, Florida 33409
Counsel for Class Plaintiff

who will in turn promptly forward such a form to the Clerk of Court.

By electing to be excluded (1) you will not share in any potential recovery that might be obtained by the class as a result of trial or settlement of this lawsuit; (2) you will not be bound by any decision in this lawsuit favorable to defendant; and (3) you may present any claims you have against the defendant by filing your own lawsuit, or you may seek to intervene in this lawsuit.

RIGHTS AND OBLIGATIONS OF CLASS MEMBERS

If you remain a member of the Class, the Class Plaintiff, B&B Properties, Inc., and its attorneys will act as your representative and counsel for the prosecution of the claims against the County. If you desire, you may appear by your own attorney at your own expense. You may also seek to intervene individually. Your participation in any recovery or other benefit that may be obtained from the defendant through the trial, or the settlement will depend upon the results of this lawsuit.

As a member of the Class, you will not be responsible to Plaintiffs' counsel for any attorneys' fees or costs except that the Court may award fees and costs to the prevailing party pursuant to statutes which govern this Class action litigation. Class counsel may also request from the Court out of pocket costs from any monies achieved on behalf of the Class. If you retain your own attorney, you will be responsible for his or her fees and costs. You will be entitled to notice and an opportunity to be heard respecting any proposed settlement or dismissal of the Class claims.

PLEASE KEEP YOUR ADDRESS CURRENT

If you change your address, or if this Notice was not mailed to your correct address, you should immediately send written notice to the Notice Administrator at:

B&B Properties Notice Administrator

**c/o Settlement Services Inc.
PO Box 10269
Tallahassee, FL 32302-2269
Telephone (833) 419-0985**

ADDITIONAL INFORMATION

The filing in this action may be examined and copied at any time during regular office hours, and subject to customary copying fees, at the Clerk of the Court's Office, Circuit Court of the Fifteenth Judicial Circuit, 205 North Dixie Highway, West Palm Beach, Florida 33401.

In addition, on the Silber & Davis website, www.SilberDavis.com there will be a link to this class action, “[B&B v. Palm Beach County Class Action Litigation](#)”. There you will find, the operative Third Amended Complaint, Palm Beach County’s Answer, the Second Amended Corrected Order Granting Plaintiff’s Motion for Class Certification, the Fourth District Court of Appeal decision affirming said Order, and the Amended Notice of Pendency of Class Action. The information in this link will be updated as necessary to include other important pleadings and relevant information to the class members. Any questions you have concerning the matters contained in this Notice, or about this litigation may be directed in writing to:

LOUIS M. SILBER, ESQUIRE
SILBER & DAVIS
501 S. Flagler Drive, Suite 306
West Palm Beach, FL 33401

DO NOT TELEPHONE THE CLERK OF THE COURT OR THE CLERK’S OFFICE, OR THE JUDGE OR HIS OFFICE IN THIS MATTER.

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_____ /

****REQUEST FOR EXCLUSION****

**READ THE ENCLOSED LEGAL NOTICE CAREFULLY BEFORE FILLING OUT THIS
FORM**

The undersigned **does not** wish to remain a member of the Class certified in the
case of B&B PROPERTIES, INC. v. PALM BEACH COUNTY, Case No. 50-2019-CA-
008660XXXXMB AI, in the Fifteenth Judicial Circuit, in and for Palm Beach County,
Florida.

Dated this ____ day of _____, 20__.

Authorized Signature

Printed Name

Address of Signatory:

**If you wish to exclude yourself from the Class, you must fill in this form and
return it to: Louis M. Silber, Esquire, Silber & Davis, 501 S. Flagler Drive, Suite 306,
West Palm Beach, FL 33409 NO LATER THAN JANUARY 30, 2024.**