

ACKNOWLEDGEMENT OF RECEIPT OF DOCUMENTS RELATED
TO A DERELICT VESSEL DETERMINATION

I hereby acknowledge that on this date I received from a Miami Police Marine Patrol Officer the following documents regarding Derelict Vessel Case Number _____.

1. A letter notifying me that my vessel has been determined to be derelict (2 pages);
2. An Explanation of Rights to an administrative hearing to determine disposition of derelict vessels. (1-page);
3. An Election of Rights Form (1-page); and
4. A Request for an Administrative hearing (2 pages).

Signature

Printed Name

Date

Current Phone Number

Current Address

Dear, John Doe
123 Main Street
Anytown, USA

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE PROPERTY (VESSEL) DESCRIBED HEREIN. The following property (vessel), to wit: (The Vessel's description here) is unlawfully upon public property known as (location of vessel) and must be removed within 5 days. Failure to remove the property will result in the City of Miami taking steps to have the property removed and destroyed pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and destruction of the vessel.

MPD Derelict Vessel Case Number: _____
Date of Posting: _____

You have been identified as the last known owner or responsible party for the above-described vessel. The City of Miami Police Department (MPD) has investigated the above-described vessel and determined the vessel is derelict as defined in sections 705.101(3) and 823.11, Florida Statutes.

The facts upon which MPD has made the determination that the vessel described above is derelict are as follows:

- The Above Vessel has no mast affixed, no rudder and no engine which has no means of propulsion. The vessel is junked and substantially dismantled. The vessel also has a hatch that is not secured which will fill with water causing the vessel to sink.
- Sections 376.15 and 823.11, Florida Statutes, make it unlawful for any person, firm, or corporation to store, leave, or abandon any derelict vessel on the public waters of the State.
- Subsection 705.101(3), Florida Statutes, defines all derelict vessels as abandoned property. Sections 376.15, 705.103, and 823.11, Florida Statutes, authorize law enforcement to remove or cause to be removed any derelict vessel from the public waters of the State and to destroy it. All costs incurred by law enforcement or authorized agents in the removal of the derelict vessel are recoverable against the owner or responsible party thereof.

MPD hereby orders you as the last known owner or party responsible for this vessel to remove it from the public waters of the State within five (5) days or to provide proof that legal transfer of the vessel's ownership occurred prior to the date of this notice. Failure to do so may result in criminal charges, pursuant to section 823.11, Florida Statutes.

Furthermore, if the vessel is not removed from the public waters of the State, MPD intends to remove or cause the removal of this derelict vessel, and the vessel will be destroyed.

The determination that this vessel is derelict may affect your interests. As such, you have the right to request an administrative hearing. Enclosed is an explanation of your rights. If you choose to do so, please complete and return the enclosed Election of Rights and the enclosed Request for Hearing forms. Failure to make any election in this matter as explained in the enclosure, within twenty-one (21) days from the date you received this notice, shall be considered a waiver of your right to a hearing.

Sincerely,

Officer A. Del Castillo
(305)603-6390
Miami Police Department
Marine Patrol

Enclosures

EXPLANATION OF RIGHTS

You may request a hearing before the Code Enforcement Board to show that the condition(s) alleged in the notice does not exist or that the derelict vessel is not derelict pursuant to F.S. § 823.11, by submitting a written request for hearing to the Office of Hearing Boards within twenty-one (21) days after the notice required by this section is given. The written request may be provided by facsimile, electronic mail, or other electronic means and must indicate if you contend that the vessel is not derelict, or indicate such other specific grounds on which impoundment, removal, or destruction of the derelict vessel is challenged. Failure to request a hearing pursuant to this section shall be deemed a waiver of the right to a hearing and an agreement to the remedy of removal, impoundment, sale, destruction, or other disposition of the derelict vessel.

Within 30 days of receipt of your timely written request for an administrative hearing, the Office of Hearing Boards will schedule a hearing before the Code Enforcement Board. The Office of Hearing Boards will send a written notice of hearing by certified mail, return receipt requested, to you at the mailing address you provide stating the time, date, and place of the hearing. At the hearing, you will have the opportunity to demonstrate why the condition(s) alleged in the notice does not exist or that the vessel is not derelict pursuant to F.S. § 823.11.

Failure to timely request or attend a scheduled hearing shall be deemed a waiver of the right to such hearing and creates a presumption that the vessel is derelict. You shall carry the burden of establishing by a preponderance of the evidence that the condition(s) alleged in the notice does not exist or that the vessel is not derelict.

Upon a finding that the vessel is derelict, the costs of impoundment, removal, sale, destruction, or other disposition of a derelict vessel will be taxed to you. Pursuant to F.S. § 705.103(4), any person who neglects or refuses to pay such amount shall not be entitled to be issued a certificate of registration for such derelict vessel or motor vehicle, or any other vessel or motor vehicle, until such costs have been paid.

No other notices are required. Unless the derelict vessel constitutes an immediate hazard to navigation or to public health, safety, and welfare, a timely written request for a hearing under this section stays all enforcement proceedings until an order of the Code Enforcement Board is rendered.

Hearings pursuant to this article shall be conducted by the Code Enforcement Board. All hearings before the Code Enforcement Board shall be open to the public. All testimony shall be given under oath and shall be recorded electronically or by a stenographer. Such recording may be transcribed at the expense of the party requesting the transcript.

The Code Enforcement Board shall consider the evidence presented by you and the City at the hearing. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings. All parties shall have an opportunity to present evidence and argument on all issues involved, conduct cross examination, submit rebuttal evidence, and be represented by counsel.

The Code Enforcement Board will proceed with a hearing in absentia on the merits of the alleged violation for all registered owner(s) whom have been properly noticed in regard to the hearing and fail to appear. Any findings or orders resulting from such hearing are valid and binding upon you.

The Code Enforcement Board will determine whether a vessel is derelict in violation of the City Code and Florida Statutes. If the Code Enforcement Board determines that a vessel is not derelict, then the vessel shall be returned to the owner(s) without payment of costs for removal and storage or the owner(s) shall be entitled to a refund or reimbursement of the reasonable costs of removal and storage if they were paid by the owner(s).

If the Code Enforcement Board determines that a vessel is derelict, the City may proceed to dispose of the derelict vessel as provided in F.S. § 823.11. The costs of storage, removal, sale, destruction, or other disposition of a derelict vessel shall be taxed to the registered owner(s). If the registered derelict vessel owner(s) does not pay the costs of removal, storage, and disposal (whether by destruction, sale, or otherwise) of a derelict vessel within 30 days of the date the city sends an invoice, then the City may lien the derelict vessel with such costs.

Following a hearing, the Code Enforcement Board will make findings of fact and conclusions of law based upon the evidence presented and made part of the record determining whether a vessel is derelict. The decision of the Code Enforcement Board is final.

ELECTION OF RIGHTS FORM

I have read the Explanation of Rights provided to me by the Miami Police Department (MPD) and understand my options. (You may select one of the options below and return this form to the Office of Hearing Boards no later than 21 days from the receipt of the notice of finding of derelict vessel or, if you do not want an administrative hearing you do not need to complete this form)

- 1. I am challenging the determination that my property is a derelict vessel and I want an administrative hearing. I dispute one or more issues of material fact in the notice of derelict vessel, I have attached the completed and signed Request for Hearing form, and I request a hearing pursuant to Section 50-504 of the City Code.
- 2. I do not wish to challenge the agency action. I do not dispute any of the issues of material fact in the Notice of action or proposed action and waive my right to object or to be heard.

I have read and understand the Election of Rights form and understand that I have the right to be represented by counsel or a qualified representative at an administrative proceeding. I also understand that I must attach a petition to this request if I have requested a hearing or an informal proceeding.

Please sign and indicate your current address and telephone number:

_____ Signature	_____ Date
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_____ PRINT NAME	_____ Phone Number
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The above indicated person is the Petitioner, counsel for the Petitioner, or the qualified representative of the Petitioner (Please check one).

_____ _____ _____ Petitioner's name and address	_____ _____ _____ Attorney or representative's Name and address (if applicable)
_____ Petitioner's email address	_____ Attorney or representative's email address

If applicable, please list the type of Permit /License applied for and the Permit/License Number

Please mail form to: Office of Hearing Boards
 444 SW 2nd Ave
 Miami, Fl. 33131

Or complete online:miamigov.com/vessel

REQUEST FOR ADMINISTRATIVE HEARING

Please complete this form or otherwise provide the information and send to the following address along with the completed Election of Rights form and a copy of the challenged agency action or the Request for Administrative Hearings can be completed online by visiting miamigov.com/vessel.

Office of Hearing Boards
444 SW 2nd Ave
Miami, Fl. 33131

1. Please identify the petitioner (the individual or organization requesting the hearing):

Name: _____
Address: _____

Phone number: (____) ____ — _____

2. Please identify the petitioner’s counsel or representative (if any):

Name: _____
Address _____

Phone number: (____) ____ — _____

[The address of petitioner’s counsel or representative, if listed above, shall be the address for service purposes during the course of the proceedings]

3. Please set forth the specific grounds on which impoundment, removal, or destruction of the derelict vessel is challenged:

4. Please explain when and how the petitioner received notice of the MPD’s finding of derelict vessel:

5. Please indicate whether the petitioner disputes any material facts and, if so, state all disputed material facts:

6. Please concisely state the ultimate facts alleged, including a statement of the specific facts that the petitioner contends show that the condition(s) alleged in the notice does not exist or that the derelict vessel is not derelict pursuant to F.S. § 823.11:

7. Please state the specific rules or statutes that the petitioner contends require reversal or modification of the MPD’s finding of derelict vessel:

8. Explanation of how the alleged facts (6) relate to the specific Rules or Statutes (7) stated above:

9. Please state the relief sought by the petitioner, stating precisely the action that the petitioner wants the MPD to take with respect to the MPD’s finding of derelict vessel:

Either the Petitioner, counsel for the Petitioner, or the qualified representative of the Petitioner must sign below agreeing that the person signing this document has read this Petition, made a reasonable inquiry, and is not filing this document for any improper purposes, frivolous purpose, or needless increase in the cost of litigation.

Signature

Date

PRINT NAME

The above indicated person is the Petitioner, counsel for the Petitioner, or the qualified representative of the Petitioner (Please check one).

Request for Administrative Hearings can be completed online by visiting miamigov.com/vessel