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MEMO

TO: All Building Officials in Miami-Dade County

FROM: Herminio F. González, P.E., M.S., Director
Building Code Compliance Office

DATE: May 27th, 2008

SUBJECT: Crane Ordinance Injunction

On May 22, 2008 a United States District Court Judge entered a preliminary injunction enjoining the enforcement of significant portions of Miami-Dade County Ordinance No. 08-34, "Ordinance Relating to the Safety of Cranes and Other Hoisting Equipment."

The Court concluded that the party's claim that portions of the Crane Ordinance are preempted by federal law is ripe for review. Among the portions of the Crane Ordinance that the Court deemed the likelihood of prevailing as **preempted and unenforceable** is the Crane Ordinance's incorporation of;

- wind load standards for the base foundation, tie-ins free standing height and height above top tie-in of tower cranes;
- the tie-ins and floor shoe connections of personnel/material hoist;
- permits and inspections of hoisting equipment

The Court, however, did indicate that several portions of the Crane Ordinance **may be severable and remain enforceable**. The portions of the Crane Ordinance that the Court concluded remain enforceable are:

- The ordinance's "Whereas Clauses";
- Section 1, 8E-1 (b) – (h);

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- Section 1, 8E-2 except that the following language, contained in the first sentence is stricken: “This chapter shall provide a uniform standard for the construction, installation, operation and use of Hoisting Equipment, for the inspection and certification of Hoisting Equipment, and for the education and certification of Hoisting Equipment operators.”
- Section 1, 8E-7;
- Section 1, 8E-10 (a);
- Section 1, 8E-11;
- Section 1, 8E-12;
- Section 2, 8CC-10, except that the following language is stricken: “Failure to maintain or operate crane or heavy equipment in a safe condition in accordance with applicable standards.”
- Section 3;
- Section 4; and
- The first sentence of Section 5, reading: “This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed shall become effective only upon override by this Board.” The remaining language in Section 5 is stricken.

A copy of the Court’s order may be viewed at <http://www.co.miami-dade.fl.us/buildingcode/>. Should you have any questions, please contact Mr. Michael Goolsby, Chief Code Compliance Officer at (305) 375-4496.