

MEMORANDUM

Agenda Item No. 7(F)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

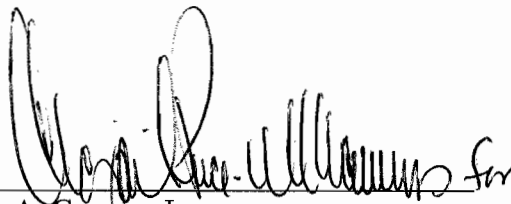
DATE: June 30, 2009

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance providing for extensions of time to periods for compliance set forth in orders of the Unsafe Structures Board or Appeal Panel, creating standards for granting extensions and establishing limitations

The additional language in this substitute item is meant only as an explanation describing by which deadline in the initial Board or Appeal Panel Order the written request for extension must be received.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dorrin D. Rolle.



R. A. Cuevas, Jr.
County Attorney

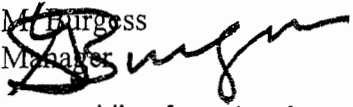
RAC/up

Memorandum



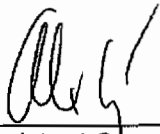
Date: June 30, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Ordinance providing for extensions of time to periods for compliance set forth in orders of the Unsafe Structures Board or Appeals

The implementation of this ordinance will not have any fiscal impact on the County since any additional enforcement costs incurred in administering a hearing before the Unsafe Structures Board or Appeal Panel to consider a request from a property owner or interested party for an extension of the timeframes specified in the original Unsafe Structure Board or Panel order will be billed to the property owner as provided for under the Code.



Assistant County Manager


fis03909



MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: June 30, 2009

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(F)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Mayor's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(F)
6-30-09

ORDINANCE NO. _____

ORDINANCE PROVIDING FOR EXTENSIONS OF TIME TO PERIODS FOR COMPLIANCE SET FORTH IN ORDERS OF THE UNSAFE STRUCTURES BOARD OR APPEAL PANEL; ESTABLISHING PROCEDURE; CREATING STANDARDS FOR GRANTING EXTENSIONS; ESTABLISHING LIMITATIONS; PROVIDING THAT APPELLATE REVIEW SHALL REMAIN UNAFFECTED NOT WITHSTANDING REQUEST FOR EXTENSION OF TIME; AMENDING CHAPTER 8 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. Chapter 8 of the Code of Miami-Dade County is hereby amended as follows:¹

* * *

Chapter 8
Building Code

Art. I. Administration

* * *

Sec. 8-5. Unsafe Structures

* * *

>>(m) Requests for Extensions of Time.

Any owner or authorized representative may seek an extension of the timeframes set forth in an Order of the Unsafe Structures Board or an Unsafe Structures Appeal Panel. Such request for a hearing to seek such extension must be in writing, directed to the Secretary of the Unsafe Structures Board or Appeal Panel (whichever body

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

issued the order for which an extension is being sought). The Board or Appeal Panel shall not be authorized to extend any deadline for compliance, set forth in the order, unless the Secretary of the Board receives the written request for extension prior to the deadline specified in the initial order. >>For example, in the event the Board Order states that a permit must be obtained within a specified period, the request for extension of the deadline to obtain the permit must be received prior to the expiration of that specified period. If the same order provides a deadline for completion of the structure, the request for the extension for the deadline of completion must be received prior the deadline for completion, provided that the applicant has complied with the permit deadline.<<² In no event may the Board or Appeal Panel grant more than one extension of time for each initial order.

To obtain an extension, the owner or applicant must demonstrate to the reasonable satisfaction of the Board or Appeal Panel that the structure that is the subject of the order is secure at the time the extension is sought and that the owner or applicant has made a good faith attempt to comply with the order which has been impeded by changed circumstances or other circumstances outside of the owner or applicant's control. As a further condition of the extension, the owner or applicant must submit in writing, together with the petition for an extension, a written time timetable for compliance with the substantive provisions of the Order and for completion of all necessary repairs. The Board or Appeal Panel shall not reconsider the order, limiting its consideration of the petition to deciding whether the grounds for an extension have been satisfied in the manner set forth in this subsection.<<

[[m]]>>(n)<< Judicial Review.

Any owner or authorized representative aggrieved by a decision of the Unsafe Structures Board or an Unsafe Structures Appeal Panel may seek judicial review of that decision in accordance with Rule 9.110 (c) of the Florida Rules of Appellate Procedure. Accordingly, any order, requirement, decision, denial of a request for extension of time, or determination of the Unsafe Structures Board of an Unsafe Structures Appeal Panel shall be reviewed by the filing of a notice of appeal in the Circuit Court Appellate Division of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, within thirty (30) days of rendition of the order.

² Committee substitute are indicated as follows: words within double brackets and double strike-through are deleted, words within double arrows and double underlining are added.

This thirty (30) day time frame commences to run from the date that the Board's or Appeal Panel's order, requirement, decision or determination sought to be reviewed is transmitted to the Secretary >>and such timeframe shall not be tolled or otherwise affected by any request for extension of time for compliance set forth in Subsection (m) above.<< The Secretary or the Director of the Miami-Dade County Building Department shall affix to each order, requirement, decision or determination is transmitted. Moreover, the Secretary to the Board and Director of the Miami-Dade County Building Department shall comply with all requirements of the Florida Rules of Appellate Procedure.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate work.

Section 4. This ordinance shall become effective 180 days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.



Prepared by:



Hugo Benitez

Prime Sponsor: Commissioner Dorrin D. Rolle

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 7(F)
File Number: 091800
Committee(s) of Reference: Board of County Commissioners
Date of Analysis: June 15, 2009
Type of Item: Code Amendment
Prime Sponsor: Commissioner Dorrin D. Rolle

Summary

This ordinance amends Section 8-5 of the Code of Miami-Dade County to allow for extensions relating to the compliance periods that are determined by the Unsafe Structures Board or Appeal Panels.

Background and Relevant Legislation

The Unsafe Structures Appeal Panels hears appeals of decisions of the Miami-Dade County Building Official declaring single-family and duplex residences and their accessory structures on vacant land to be unsafe where there is a danger to the health and safety of citizens.

Currently, the Code provides that if the cost of completion, alteration, repair and or/replacement of an unsafe building or structure exceeds fifty (50) percent of its value, the building should be demolished and removed from the premises. If a building can be repaired and made safe, the building must be completed and brought into full compliance with the Florida Building Code within such time as the Building Official, Unsafe Structures Appeal Panel or the Unsafe Structures Board has determined to be reasonable for such completion. If the building is not brought into full compliance within that timeframe the building or structure is demolished.

Policy Change and Implication

This amendment allows for the owner or representative to seek an extension in writing of the timeframe that is granted by the Unsafe Structures Board or the Unsafe Structures Appeal Panel.

Questions

What is the deadline for the owner of an unsafe structure to request an extension?

During the June 9, 2009 Government Operations Committee meeting a substitute item was presented to Committee members clarifying that if the Board Order states that a permit must be obtained within a

specified period, the request for extension of the deadline to obtain the permit must be received prior to the expiration of the specified period. If the same order provides a deadline for the completion of the structure, the request for extension must be received prior to the deadline for completion, provided that the applicant has complied with the permit deadline.

Please provide the number of demolitions that were performed during FY 2007-08?

According to the Miami-Dade County Building Department, 116 demolitions were completed during this time period.

Are there any types of corrective actions allowed by the owners after an order of demolition has been issued?

According to the Miami-Dade County Building Department, owners have a right to appeal from any Board or Panel order to court or can file a lawsuit for the purpose of seeking an injunction if the owner does not appeal the original Board or Panel order and subsequently fails to comply with the timeframes specified in the order.

Budgetary Impact

N/A

Prepared By:

Tiandra D. Sullivan