

MEMORANDUM

GO
Agenda Item 1(F)1

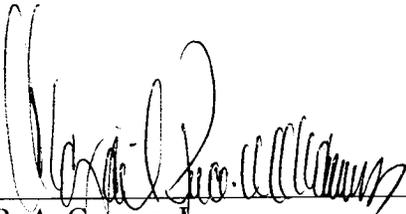
TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: March 9, 2010

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

SUBJECT: Ordinance requiring business
telephone directories to list
on the front cover information
on how to opt out of receiving
such directories

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Katy Sorenson and Co-Sponsor Commissioner Carlos A. Gimenez.



R. A. Cuevas, Jr.
County Attorney

RAC/up

Memorandum



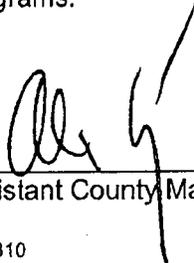
Date:
To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners
From: George M. Burgess
County Manager
Subject: Ordinance requiring business telephone directories to list information on how to opt out of receiving directories; creating Section 21-50 of the Code and amending Chapter 8CC

The proposed legislation requiring business telephone directories to list on the front cover information on how to opt out of receiving such directories may have a fiscal impact to Miami-Dade County.

At this time it is difficult to assess how many complaints will be received and must be investigated, and what type of resources would be needed to address the enforcement. Given current revenue constraints, it will not be possible to investigate violations resulting from this ordinance beyond that which can be absorbed by existing staff.

The proposed legislation provides penalties associated with violating any provision of the legislation punishable by a \$250 fine for the first offense and a \$500 fine for the second offense. The possible fine based revenue generation resulting from the proposed legislation is dependent upon the application of the enforcement section. If, for example, a fine is levied only once per violation upon each of the few major companies that distribute the business telephone directories, then the revenue generation is minimal. Alternatively, if a fine is levied for each offense the fine based revenue generation would be considerably greater.

It should be mentioned that as an alternative to waiting for the publisher or distributor to reclaim the unclaimed or discarded telephone directories, they may be recycled through our various recycling programs.


Assistant County Manager

fis03310



MEMORANDUM

(Revised)

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

DATE: January 21, 2010

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

SUBJECT: Agenda Item No. 4(B)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(B)
1-21-10

ORDINANCE NO. _____

ORDINANCE REQUIRING BUSINESS TELEPHONE DIRECTORIES TO LIST ON THE FRONT COVER INFORMATION ON HOW TO OPT OUT OF RECEIVING SUCH DIRECTORIES; REQUIRING COLLECTION OF UNCLAIMED DIRECTORIES; CREATING SECTION 21-50 OF THE CODE OF MIAMI-DADE COUNTY; AMENDING CHAPTER 8CC OF THE CODE OF MIAMI-DADE COUNTY TO INCLUDE PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, over 500 million telephone directories are printed every year, equating to nearly two books for every person in the U.S., according to the organization Yellow Pages Go Green; and

WHEREAS, Yellow Pages Go Green also indicates that to produce the 500 million directories that are produced each year, 19 million trees are harvested, 1.6 billion pounds of paper are used, 268,000 cubic yards of landfill are taken up, 3.2 billion kilowatt hours of electricity are used, and 7.2 million barrels of oil are used in the publishing process along with countless additional barrels of oil to deliver directories; and

WHEREAS, many Miami-Dade County residents currently receive multiple telephone directories each year even though many residents keep at most one directory and a growing number of residents keep no directories at all; and

WHEREAS, in recent years, the way people acquire telephone numbers, addresses and similar information has changed substantially as people increasingly are turning to the internet, text messaging or calling 411 for such information, rather than using traditional telephone directories; and

WHEREAS, many telephone directories that are distributed go unclaimed and unused, and are frequently thrown away immediately, entering the solid waste stream; and

WHEREAS, a common sight in the common areas of apartment buildings, office buildings and condominium complexes in Miami-Dade County is stacks of unclaimed and unused telephone directories that sit wrapped in plastic for weeks and months after delivery; and

WHEREAS, telephone directories also are left at abandoned and foreclosed properties, and Miami-Dade County has one of the highest rates of abandoned and foreclosed properties in the U.S.; and

WHEREAS, telephone directories are also left at homes where residents are seasonal or on vacation, signaling to potential criminals that homes are unoccupied and Miami-Dade County has a large population of seasonal residents; and

WHEREAS, vacationing or seasonal residents currently can stop delivery of newspapers and U.S. Mail, but cannot stop delivery of telephone directories as easily; and

WHEREAS, publication of large numbers of telephone directories results in unnecessary use of resources, burdens on the solid waste management system, litter, poor aesthetics and potential signals to criminals that homes are unoccupied; and

WHEREAS, a firm that publishes telephone directories for distribution in Miami-Dade County itself has sought to waive requirements that they publish and deliver such directories; and

WHEREAS, in February, 2009, BellSouth Telecommunications, Inc. d/b/a AT&T Florida (BellSouth) petitioned the Florida Public Service Commission (PSC) for a waiver from Rule 25.4.040(2), Florida Administrative Code, which requires telephone companies to furnish each subscriber an alphabetical directory of local residential and businesses listings, commonly known as white pages; and

WHEREAS, by order dated July 8, 2009, the PSC granted BellSouth a two-year waiver of the requirement that BellSouth provide printed alphabetical directories of business and residential listings to all subscribers; and

WHEREAS, under the waiver, subscribers can access alphabetical residential and businesses listings via the internet or request printed copies or CD-ROMs of the alphabetical directories; and

WHEREAS, the PSC does not regulate business telephone directories organized by type and containing advertisements; and

WHEREAS, in March, 2008, the City of Albany, New York, passed an ordinance that required telephone directories to include a telephone number and address for residents who wanted to opt-out of receiving directories for a period of five years; and

WHEREAS, in June, 2009, the Town of Cutler Bay proposed an ordinance that would allow Town residents to opt out of receiving business telephone directories; and

WHEREAS, the Town of Cutler Bay did not pass the ordinance when AT&T agreed to send post cards to all Town residents notifying them of a telephone number they could call so as not to receive AT&T directories; and

WHEREAS, publishers of business telephone directories in Miami-Dade County currently provide residents the ability to opt out of receiving business telephone directories, but there is no reference in the current directories to the ability to opt out or information about how to opt out, such as a telephone number to call, a mailing address to which to write, an email address to use or a website to visit; and

WHEREAS, this Board is concerned about the environmental, public safety and aesthetic consequences of the delivery of unclaimed and unused business telephone directories in Miami-Dade County; and

WHEREAS, this Board believes it is in the best interest of Miami-Dade County to reduce paper waste and address the other issues set forth above by reducing the presence of unclaimed and unused business telephone directories; and

WHEREAS, this Board desires to require those persons who publish and deliver business telephone directories to expressly advise residents on the cover of the directory of the existing ability to opt out of receiving such directories and, after the passage of a certain amount of time, to pick up unclaimed and unused directories and recycle them,

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

Section 1. Section 21-50 of the Code of Miami-Dade County, Florida is hereby created as follows:

Sec. 21-50. Business telephone directories.

(A) *Definitions.* The following words and phrases, when used in this ordinance, shall have the following meanings:

- (1) “Business telephone directory” or “Directory” means a non-residential publication containing more than 300 pages that lists names, addresses, and telephone numbers by type and contains advertisements promoting those businesses or the products they sell;
- (2) “Deliver” means to physically bring to a resident by personal delivery or leave at a common location, such as a lobby, for retrieval by the resident, whether by contractor, subcontractor or other method not specifically excluded, but does not include delivery by the United States Postal Service,

a commercial courier, or a commercial package delivery service that allows a customer to track the status of a shipment by destination, date, and time of delivery;

(3) "Person" means any individual, corporation, partnership or other legal entity, or any agent or employee thereof.

(4) "Resident" means a person that has a mailing address in Miami-Dade County that is not a post office box.

(B) *Option to Stop Delivery of Business Telephone Directories.*

(1) Beginning October 1, 2010, a person engaged in the business of publishing business telephone directories to residents shall prominently and conspicuously print in bold-faced type all of the following information on the front cover of the directory:

(a) A statement that reads "IF YOU NO LONGER WISH TO RECEIVE THIS DIRECTORY, PLEASE CALL THE FOLLOWING TELEPHONE NUMBER, WRITE TO THE FOLLOWING MAILING ADDRESS, SEND AN E-MAIL TO THE FOLLOWING E-MAIL ADDRESS OR VISIT THE FOLLOWING WEBSITE:";

(b) A telephone number, a mailing address, an e-mail address and an internet website address that a resident may use to provide verbal, written or electronic notice that the resident no longer wishes to receive the business telephone directory; and

(c) The date on which the directory was delivered and the person responsible for delivering the directory.

- (2) A person engaged in the business of publishing business telephone directories in Miami-Dade County shall include on its internet website information that is prominently and conspicuously placed on how a resident can stop delivery of the directories along with a telephone number, mailing address and e-mail address and.
 - (3) A person engaged in the business of publishing or delivering business telephone directories shall not distribute a business telephone directory to a resident who provides notification that the resident no longer wishes to receive the business telephone directory for a period of five (5) years, unless such resident affirmatively contacts the person to request delivery of a directory.
- (C) *Collection of unwanted or unclaimed business telephone directories.* Beginning October 1, 2010, a person engaged in the business of delivering business telephone directories to residents shall return to the location where such directories were delivered between 10 and 15 days after the date of delivery and pick-up and recycle all business telephone directories that are unclaimed and remain at or near the place where such directories were delivered.
- (D) *Applicability and Enforcement.* The provisions of this section shall be applicable in the incorporated and unincorporated areas of Miami-Dade County, and shall be enforced by the County in the unincorporated areas and by the respective municipalities in the incorporated areas.
- (E) *Penalties.* Any person violating any provision of this section shall be punished by a fine not to exceed two hundred fifty dollars (\$250.00) per directory for the first offense and five hundred dollars (\$500.00) per directory for the second offense. Each local business telephone directory delivered to a resident or not picked up and recycled in violation of this section shall constitute a separate violation. Any violation of the provisions of this

section shall also be enforceable in accordance with the provisions of Chapter 8CC.

Section 2. Section 8CC-10 of the Code of Miami-Dade County is hereby amended to read as follows:¹

Sec. 8CC-10. Schedule of civil penalties.

<u>Code Section</u>	<u>Description of Violation</u>	<u>Civil Penalty</u>
*	*	*
>>21-50<<	>> <u>Violation of any provision of the business telephone directory ordinance</u> <<	>> <u>First violation</u> <u>Second or Subsequent violation</u> \$250.00 \$500.00<<
*	*	*

Section 3. 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 4. 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 relettered to accomplish such intèntion, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

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.

Section 5. 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 an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

APW

Prepared by:

JMM

Jess M. McCarty

Prime Sponsor: Commissioner Katy Sorenson

Co-Sponsor: Commissioner Carlos A. Gimenez