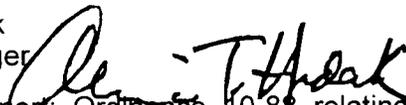


Memorandum



Date: April 13, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager 

Subject: Substitute Report: Ordinance 10-88 relating to Section 32-92 of the Miami-Dade County Code establishing County policy providing for tenants to receive water and sewer service through a bridge account not to exceed 6 months where a rental multi-unit property is served by one meter and property owner's account is terminated for non-payment

INLUC
Supplement to
Agenda Item No.
2(B) Substitute

This substitute report corrects two numerical changes to the original report placed on the March 9, 2011 Infrastructure and Land Use Committee agenda. On page 2 of this report, question number 4, the following numerical changes were made 1) After the bridge account is established, 15 days later, WASD will read the meter at the rental multi-unit building in question and will send a bill to the Tenant Representative for the first 15 days of service, not the first 30 days of service, and 2) the bill must be paid within 20 days after receipt, not within 15 days after receipt.

At the December 9, 2010 Board of County Commissioners (Board) meeting, Ordinance 10-88 was adopted as amended relating to tenants who reside in rental multi-unit buildings served by a single meter, whose water and sewer service is cut-off due to the property owner's failure to pay the service bill. The ordinance requires that the County establish a policy to provide assistance to such tenants through the creation and administration of a bridge account which would allow tenants to continue to receive water and sewer service for a period of six months. This report is a companion item to the Implementing Order creating this policy on the agenda.

WASD currently provides water and sewer services to 7,557 single metered rental multi-unit buildings with less than 15 units. Over the past three years, service has been terminated in 395 buildings for non-payment, in some cases, more than once. Out of these 395 terminations, only 11 property owners agreed to a payment agreement. Presently six remain current and five have defaulted, consequently, service was terminated on those accounts until payment was received. For rental multi-unit buildings with more than 15 units, out of a total of 3,142 buildings, service has been terminated in 13 buildings for non-payment and in some cases service was terminated more than once as well. Out of these 13 buildings only three property owners agreed to a payment agreement of which all defaulted, however, service was not terminated as payment was received prior to termination for all buildings.

The Implementing Order outlines a County policy, which if approved by the Board, provides tenants of rental multi-unit buildings the opportunity to set up a bridge account. It requires that the conditions enumerated below be met prior to the establishment of a bridge account.

- 1) The units served by the same meter are rental units, and the rent paid by the tenants includes a charge for water and/or sewer service.
- 2) The property owner has failed to pay WASD for water and/or sewer service.
- 3) WASD has closed the property owner's account.
- 4) If the three conditions mentioned above are met, the tenants of the rental multi-unit building may open a bridge account as long as a) the tenants put down a deposit/pre-payment of 2.5 times the

¹ The payment of 2.5 times the average monthly bill is comprised of the following: a 30-day prepayment for services and a deposit in the amount of 1.5 times the average monthly bill, which will cover any excess water service utilized by the tenants beyond the average monthly bill. If there are any funds remaining in the deposit/pre-payment account, they will be used to cover the water service until all funds have been depleted, which may mean in some instances that the water could remain on for slightly more than 6 months.

average monthly bill for the entire multi-unit dwelling as stated in Section 2.07 (5) of the WASD's Rules and Regulations Manual 1, and b) the tenants provide the name and contact information for a Tenant Representative who will serve as the contact person with WASD on behalf of the tenant(s) and who will receive all correspondence, notices and bills for the bridge account.

This proposed policy provides tenants with continued water and sewer service for a period of six months and the opportunity to 1) pursue an injunction against the property owner pursuant to Florida Statute 83.67, 2) pursue other appropriate legal remedies, or 3) move to another residence. If the problem with the property has not been resolved earlier, at the end of the six month period, the account will remain on until all deposit/pre-payment funds have been depleted, which may mean in some instances that the water could remain on for slightly more than six months.

In addition, the Board asked a series of questions and/or made comments related to the proposed Implementing Order at the December 7, 2010 meeting, the responses are below.

1. "The Implementing Order should enable the County to collect the balance due on the property owner's account, if not 100%, at least 90% or so"

The Implementing Order requires that WASD close the property owner's account. If a bridge account is established, when it is established, it is a new account in the name of the tenants with no balance due to WASD based on the property owner/landlord's outstanding balance.

2. How will the bridge account policy work in a building with one meter?

The Implementing Order has been written specifically for rental multi-unit buildings served by one meter. In order to qualify for the proposed bridge account policy, the units served by the same meter must be rental units, and the rent paid by the tenants must include the water and/or sewer service charge. The property owner must have failed to pay WASD for water and/or sewer service for the building and WASD must have closed the property owner's account. If the conditions mentioned above are met, the tenant(s) of the rental multi-unit building may open a bridge account as long as 1) the tenant(s) pay 2.5 times the average monthly bill for the entire multi-unit dwelling based on an average from the water and sewer bill for the past six months, and 2) the tenant(s) provide the name and contact information for a tenant representative who will serve as the contact person with WASD on behalf of the tenants and who will receive all correspondence, notices and bills for the bridge account.

3. Will the water be turned off after a bridge account has been open for six months?

No. The account will remain open until all deposit/pre-payment funds have been depleted, which may mean in some instances that the water could remain on for slightly more than six months, and then the bridge account will be closed. If a solution has not been put into place by the tenant(s) of the rental multi-unit dwelling in question, water and sewer service will be terminated after all funds have been depleted in the account. To resolve the problem with their landlord during the six month bridge account period, tenants have the option to pursue an injunction against the property owner pursuant to Florida Statute 83.67, pursue other available legal remedies, or move to another residence.

4. If the tenants in the rental multi-unit buildings do not make payment for six months after the bridge account is opened, what happens?

After the bridge account is established, 15 days later, WASD will read the meter at the rental multi-unit building in question and will send a bill to the Tenant Representative for the first 15 days of service. The bill must be paid within 20 days after receipt. If the tenant(s) fail to pay any bill generated by the bridge account by the due date, WASD will apply the deposit to the unpaid bill. Once the deposit has been expended in full, the bridge account will be closed and service will be terminated even if six

months have not elapsed. Extensions, payment plans or partial payments are not allowed under the Implementing Order.

5. What happens when there are only two tenants willing to pay the water and sewer service bill in a rental 20-unit building?

The Implementing Order does not require a specific number of tenant(s) to participate in the establishment and administration of the bridge account. As long as the conditions enumerated in response #2 above are met, the bridge account will be opened.

In short, as long as the total amount due for the deposit is received by WASD to meet the conditions enumerated in response #2 above, it does not matter who or how many tenants have contributed. In what proportion each tenant pays is a decision to be resolved by the tenants as a group, not WASD.

6. Does WASD have an account to fund the Bridge Account Policy?

No. WASD does not need an account to fund the Bridge Account Policy. The Implementing Order requires a deposit of 2.5 times the average monthly bill as stated in Section 2.07 (5) of the WASD's Rules and Regulations Manual for the entire multi-unit dwelling based on an average from the water and sewer bill for the past six months. WASD will apply this deposit if payment is not received by the due date of the monthly bill issued anytime during the six month period, and will close the bridge account and terminate service after the deposit has been expended in full.

7. "The County should look to see if the rental building owners that fail to make payment on their water and sewer service bills and are Section 8 Vouchers recipients".....

The Miami-Dade Public Housing Agency (MDPHA) administers the Section 8 Housing Choice Voucher (HCV) Program for Miami-Dade County residents. MDPHA can check if a specific tenant receives a Section 8 Voucher and immediately when the water service is shut off, the tenant or WASD can inform MDPHA, and the subsidy payment the landlord receives for that specific tenant(s) is withheld or abated for failure to abide by the Housing Quality Standards set forth in 24 CFR §982.401, which requires such landlords to provide a clean and safe water supply to subsidized units. In addition, the subsidy payment is abated until water service is turned back on, and the landlord will not receive any subsidy payments for as long as the water service is shut-off nor will the landlord receive that portion of the subsidy for any time period that the water is not available to the unit.

Furthermore, at the State and Federal level, the United States Department of Housing and Urban Development (USHUD) also administers a Section 8 project based rent subsidy payment program for specific buildings and also a rent subsidy payment program for specific units in mixed income developments. These two rent subsidy programs, also available in Miami-Dade County, are monitored by USHUD and not by MDPHA. But again, as the case with the MDPHA Section 8 HCV program, MDPHA can check with USHUD to determine if a building is receiving any federal subsidy payments from USHUD. MDPHA can then contact and inform USHUD of the water shut off at the property and USHUD in that case will be responsible to take appropriate action to withhold or abate subsidy payments for that entire building or for those specific units assisted by USHUD.

8. What are other utilities/counties doing to handle these types of issues?

In the State of Florida, Broward and Palm Beach Counties do not provide tenants the option of paying in lieu of the landlord to avoid termination of service. Other utilities throughout the State of Florida, such as the Jacksonville Electric Authority and the Orlando Utilities Commission, provide electricity, water and sewage disposal service. In cases of non-payment, service is terminated.

Nationally, we found that the State of Pennsylvania passed the Utility Services Tenants Rights Act in

1978. Under the Act, after various notices have been provided to the landlord regarding termination of service as a result of non-payment, the tenants have the right to keep the service running by paying the amount due for the service every 30 days in lieu of the landlord. In the event tenants do not make payment, the account is closed, service will be discontinued, and any extra funds will be refunded.

9. Can we authorize WASD to accept payment directly from the tenants in rental multi-unit buildings served by one meter and bypass the property owner when the property owner fails to make payment on the water and sewer service bill?

The Implementing Order attached provides procedures for tenant(s) of rental multi-unit buildings to open a bridge account and make payment directly to WASD. Since there is only one meter serving the property, there can only be one account for the property at a time. In other words, WASD cannot create separate accounts for each tenant because there is no way to determine water usage per unit when there is only one meter for the building.

Per Ordinance 08-14, adopted on February 5, 2008, amending Section 8A-381 of the Miami-Dade County Code, effective July 1, 2008, all permit applications for new multi-family residential developments shall be required to include a submeter for each individual dwelling unit. It is very costly to retrofit existing buildings and the cost would have to be borne by the building owners which may not have the funds to do so.

10. If the Implementing Order is approved, there will be a real disincentive for building owners to make payment because of the six month extension.

A six month extension is not offered to property owners under the Implementing Order. It requires that the property owner's delinquent account be closed before a bridge account can be opened by the Tenant Representative. The Tenant Group is not responsible for paying the outstanding balance owed by the property owner/landlord.

The incentive for tenant(s) to make prompt payment during the six months the bridge account is in effect is that if payment is not received by the due date stated in the monthly bills issued, WASD will apply the deposit, close the bridge account and terminate service after the deposit has been expended in full. The bridge account will also be closed for non-payment, even if six months has not elapsed.

11. There are some serious unintended consequences if this bridge account policy is implemented that may harm WASD.

The proposed policy provides assistance to tenants in need of water and sewer services and at the same time, safeguards the County from serious unintended consequences. The establishment of a bridge account is an option available only to the tenant(s). If a bridge account is established, it is a new account with no balance due to WASD. If the tenant(s) fails to pay any bill generated by the bridge account by the due date, WASD will apply the deposit. Once the deposit has been expended in full, the bridge account will be closed, and service will be terminated, even if six months has not elapsed. Extensions, payment plans or partial payments are not allowed.


Assistant County Manager